Montana Fish, Wildlife & Parks

Region 2 Headquarters
3201 Spurgin Road
Missoula, MT 59804-3101
406-542-5500
May 26, 2011

Dear Interested Citizen:

Enclosed you will find for your review the Draft Environmental Assessment (EA) for a Montana Fish, Wildlife & Parks (FWP) proposal to acquire the hard-rock mineral rights (HRMR) for 29,488 acres of its 40,945-acre Fish Creek Wildlife Management Area and State Park ("Fish Creek Property"), from CR Montana Corporation. FWP already has the HRMR to approximately 5,500 acres of its Fish Creek Property, acquired in 2010 and located west of Alberton in Mineral County. This potential HRMR purchase would ensure no mineral exploration or extraction activities would occur under the majority of FWP's Fish Creek Property, thus meeting many of the objectives for which the property was originally purchased.

The EA may also be obtained by mail from Region 2 FWP, 3201 Spurgin Rd., Missoula 59804; by phoning 406-542-5500; by emailing fwprg22@mt.gov; or by viewing FWP's Internet website http://fwp.mt.gov ("Recent Public Notices," beginning May 26). For questions regarding the proposal, please contact Darlene Edge (FWP, Helena) at 406-444-4042 or dedge@mt.gov.

Comments should be directed by: mail to Rebecca Cooper, FWP, PO Box 200701, Helena, MT 59620-0701; phone to 406-444-4756; or email to rcooper@mt.gov. Comments must be received by FWP no later than 5 P.M. on June 27, 2011.

As part of the decision making process under MEPA, I expect to issue the Decision Notice for this EA soon after the end of the comment period. The Montana Fish, Wildlife & Parks Commission has the final decision-making authority for FWP acquisition proposals, and the Commission will be asked to render its decision on this proposal at its August 11 meeting in Helena. Approval will also be necessary from the Montana Board of Land Commissioners.

Sincerely,

Mack Long
Regional Supervisor

ML/sr

DRAFT Environmental Assessment

Proposed Mineral Rights Acquisition

Fish Creek State Park and Fish Creek Wildlife Management Area

May 26, 2011

Montana Fish, Wildlife & Parks

1.0 PURPOSE OF AND NEED FOR ACTION

1.1. Proposed Action and Need

Montana Fish, Wildlife and Parks (FWP) proposes to purchase the hard-rock mineral rights from CR Montana Corporation (CRMC, a wholly owned subsidiary of Canyon Resources) under 29,488 acres of FWP's recently acquired Fish Creek Wildlife Management Area (WMA) and Fish Creek State Park (SP), located in Mineral County in the Bitterroot Mountains south of Tarkio, Montana and part of the Middle Clark Fork River watershed. Together, the WMA and SP comprise FWP's "Fish Creek Property."

In April 2010, FWP acquired the 40,945-acre property known as the Fish Creek Property from The Nature Conservancy (TNC). The objectives for the acquisition included:

- To permanently protect portions of the Middle Clark Fork watershed.
- To maintain critical habitat for bull trout and westslope cutthroat trout.
- To protect and enhance critical winter range and other seasonal habitats for a diversity of wildlife.
- To preserve an important forest carnivore linkage zone between the Ninemile Divide and Selway-Bitterroot Wilderness.
- To create a natural recreation linkage with the Alberton Gorge.
- To designate a large-acreage state park in western Montana.
- To provide enhanced access and recreation opportunities for hunting, hiking, angling, sightseeing, wildlife viewing, floating, trail use, and camping.

As part of the acquisition, 5,500 acres of mineral rights associated with the property were transferred from TNC to FWP. The remaining acres of mineral ownership were retained by CR Montana Corporation (approx. 29,488 acres) and the federal government (approx. 5,957 acres). CRMC is involved with all phases of the mining business including exploration, development, and closure. Its principal areas of interest are in gold, uranium, silver, and industrial minerals. As owners of hard-rock mineral rights, CRMC retained the right to enter the Fish Creek Property and remove the mineral resource at some future time.

During the public comment period (January 2010) for the Environmental Assessment (EA) for acquisition of the property, comments were received asking why FWP was not purchasing the mineral rights at the same time. At the time of the publication of the acquisition EA, FWP did not know if CRMC would be interested in selling the hard-rock mineral rights associated with the Fish Creek Property separate from its other Montana mineral rights, since CRMC was in the process of selling all of its Montana interests at the time. Since the completion of the Fish Creek Acquisition EA/DN, FWP completed negotiations with CRMC for its hard-rock mineral rights under the Fish Creek Property.

As part of the evaluation and due diligence process associated with the acquisition of the Fish Creek Property by FWP, a mineral assessment was conducted by the Helena-based engineering firm, Tetra Tech. Tetra Tech's report concluded the potential for metallic mineral occurrence

with the Fish Creek Property was low. However, there was economic potential for sand and gravel development at the site. The potential purchase of the CRMC hard-rock mineral rights would ensure no mineral exploration and/or extraction activities would occur under the majority of FWP's Fish Creek Property in the future, thus meeting many of the objectives for which the property was originally purchased.

1.2 Location

The hard-rock mineral rights to be purchased for FWP's Fish Creek Property are located approximately 41 miles west of Missoula, Montana near the town of Tarkio along Interstate Highway 90 (I-90), in Mineral County (Table 1, Figure 1).

Table1 . Township, Range and Section locations of the CRMC mineral rights within FWP's Fish Creek Property.

13N, 24W: Section 5	Lot 1	Lot 4
	Lot 2	S1/2N1/2
	Lot 3	S1/2
Section 6	Lot 3	Lot 7
	Lot 4	SE1/2NW1/4
	Lot 5	E1/2SW1/4
	Lot 6	
Section 9	All	
Section 17	All	
Section 18	Lot 1	NE1/4
	Lot 2	N1/2SE1/4
	Lot 3	SE1/4SE1/4
	Lot 4	
Section 19	Lot 1	Lot 4
	Lot 2	E1/2W1/2
	Lot 3	E1/2
Section 21	NW1/2	SW1/4SW1/4
	NW1/4NW1/4	
Section 29	N1/2N1/2	E1/2SE1/4
	SW1/4NW1/4	SW1/4SE1/4
	SE1/4NE1/4	SE1/4SW1/4
Section 31	Lot 1	Lot 4
	Lot 2	E1/2W1/2
	Lot 3	E1/2
13N, 25W: Section 1	Lot 3	S1/2NW1/4
	Lot 4	S1/2
Section 2	Lot 3	S1/2N1/2
	Lot 4	N1/2SE1/4
Section 3	Lot 1	E1/2SE1/4
	Lot 2	

14N, R24W (continued)		
Section 29	All	
Section 31	Lot 3	E1/2W1/2
	Lot 4	E1/2
Section 32	All	
Section 33	NW1/4	S1/2NE1/4
	S1/2	
14N, 25W: Section 3	Lot 4	S1/2NW1/4
	Lot 5	S1/2SE1/4
	Lot 7	SW1/4
Section 11	Lot 1	S1/2N1/2
	Lot 2	N1/2S1/2
	Lot 3	SW1/4SE1/4
	Lot 4	
Section 12	Lot 1	S1/2NE1/4
	Lot 2	N1/2SE1/4
Section 13	All	
Section 15	All	
Section 22	S1/2	
Section 23	All	
Section 25	All	
Section 26	SE1/4	
Section 27	All	
Section 35	SE1/4	NE1/4SW1/4
15N, 24W: Section 5	SE1/4	
Section 7	Lot 2	SE1/4NW1/4
	Lot 3	E1/2
	Lot 4	

13N, R25W (continued)		
Section 11	All	
Section 12	SW1/4	
Section 13	All	
Section 14	NE1/4NW1/4	N1/2NE1/4
Section 15	NE1/4NW1/4	S1/2NW1/4
	NE1/4	S1/2
Section 23	All	
Section 25	All	
Section 35	N1/2	
14N, 24W: Section 5	Lot 1	Lot 4
	Lot 2	S1/2N1/2
	Lot 3	S1/2
Section 6	Lot 5	SE1/4NW1/4
	Lot 6	E1/2SW1/4
	Lot 7	SE1/4
Section 7	Lot 1	E1/2W1/2
	Lot 2	NE1/4
	Lot 3	SE1/4SE1/4
	Lot 4	
Section 8	N1/2NE1/4	SE1/4NE1/4
Section 9	All	
Section 10	SW1/4NW1/4	SW1/4SE1/4
	SW1/4	
Section 15	All	
Section 17	W1/2	W1/2SE1/4
Section 18	Lot 1	E1/2W1/2
	Lot 2	W1/2NE1/4
	Lot 3	NW1/4SE1/4
	Lot 4	E1/2E1/2
Section 19	Lot 1	Lot 4
	Lot 2	E1/2W1/2
	Lot 3	E1/2
Section 20	E1/2NE1/4	SE1/4
	E1/2SW1/4	
Section 21	W1/2	N1/2NE1/4
	SW1/4NE1/4	SE1/4

15N, R24W (continued)		
Section 8	Lot 1	Lot 4
	Lot 2	E1/2W1/2
	Lot 3	W1/2SE1/4
Section 17	Lot 4	Lot 7
	Lot 5	N1/2NE1/4
	Lot 6	
Section 18	Lot 5	Lot 12
	Lot 8	Lot13
	Lot 9	Lot 14
	Lot 10	E1/2SW1/4
	Lot 11	
Section 19	Lot 2	Lot 7
	Lot 3	Lot 8
	Lot 4	Lot 9
	Lot 5	Lot 14
	Lot 6	E1/2NW1/4
Section 21	N1/2	N1/2SE1/4
	SE1/4SE1/4	
Section 22	N1/2NW1/4	SW1/4NW1/4
	W1/2NE1/4	E1/2SE1/4
	SW1/4SE1/4	SW1/4
Section 23	All	
Section 24	NE1/4NW1/4	S1/2N1/2
	N1/2S1/2	SE1/4SW1/4
	S1/2SE1/4	
Section 25	All	
Section 26	N1/2	W1/2SW1/4
	N1/2SE1/4	
Section 27	All	
Section 35	N1/2N1/2	
15N, 25W: Section 1	S1/2NW1/4	
Section 12	SW1/4SW1/4	
Section 23	N1/2NE1/4	

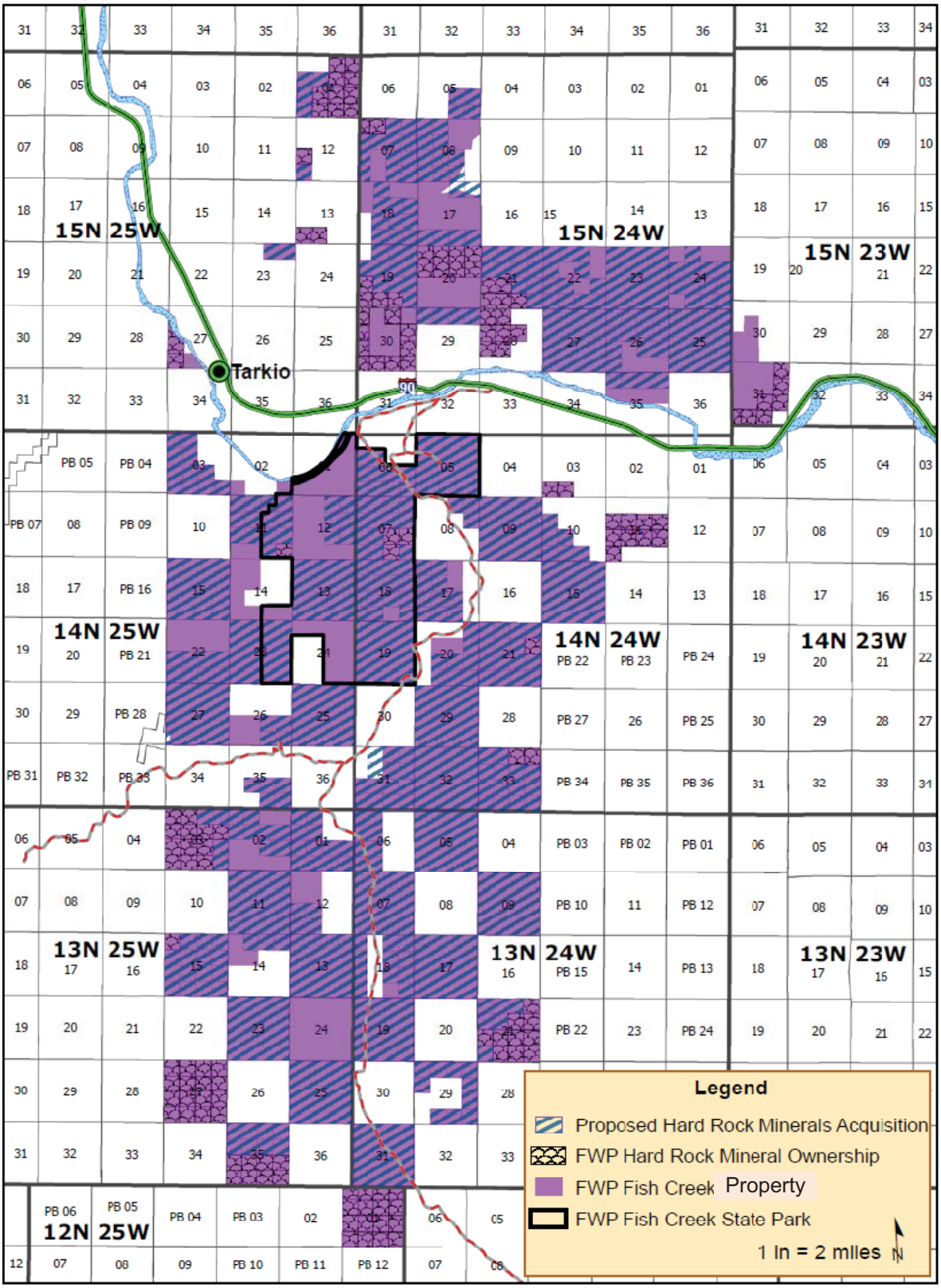

Figure 1. Location of hard-rock mineral rights that FWP proposes to purchase for portions of its Fish Creek Property. (Fish Creek WMA is that portion of the FWP Fish Creek Property that is located outside the State Park boundary.)

1.3 Authority

FWP has the authority to purchase lands that are suitable for game, bird, fish or fur-bearing animal restoration, propagation or protection; for public hunting, fishing, or trapping areas; and for state parks and outdoor recreation per Montana state statute § 87-1-209.

Funding for the proposed mineral rights acquisition would come from U.S. Fish and Wildlife Service's Pittman-Robertson Wildlife Restoration Program. Per § 87-1-709, Montana Code Annotated (MCA), FWP has the power to acquire lands with federal funds for the one or more of the following purposes: a) protecting or maintaining habitat conditions for fish or wildlife species by placing land under public control or ownership, b) developing or improving habitat conditions to enhance carrying capacity, and/or c) providing public access for the use of fish and wildlife resources.

1.4 Relevant Environmental Assessments

As previously noted, in early 2010 FWP completed an environmental assessment for the acquisition of the Fish Creek Property. The acquisition EA and its subsequent Decision Notices (hereafter, "Fish Creek Acquisition EA/DN") are available through the following web links (as of 23 May 2011):

EA:
http://fwp.mt.gov/news/publicNotices/environmentalAssessments/acquisitionsTradesAndLeases/pn_0081.html
Decision Notice:
http://fwp.mt.gov/news/publicNotices/decisionNotices/pn_0423.html
Revised Decision Notice:
http://fwp.mt.gov/news/publicNotices/decisionNotices/pn_0427.html

2.0 ALTERNATIVES

2.1. Alternative A – Proposed Action: For FWP to purchase the hard-rock mineral rights associated with approximately 29,488 acres of its Fish Creek Property from CR Montana Corporation

This very large property was acquired by FWP to protect winter range habitat for ungulates and movement corridors for a variety of terrestrial species, for protection of fisheries and riparian areas, and to provide access and opportunities for public recreation. The purchase of these mineral rights would ensure no future mineral exploration and/or extraction activities could occur under 85% of FWP's Fish Creek Property that could compromise the existing resource values.

Expected cost of purchasing the CRMC hard-rock mineral rights is $147,438.

2.2 Alternative B – No Action: FWP would not purchase the CR Montana Corporation mineral rights under its Fish Creek Property

Under the No Action Alternative, FWP would not purchase the mineral rights owned by CRMC under Fish Creek State Park and Fish Creek Wildlife Management Area. CRMC would likely continue to research other selling options and potential buyers for its mineral rights. The

possibility for mineral exploration and extraction could be developed in the future by CRMC or another party, which could potentially jeopardize wildlife, fisheries, and recreation resource values.

3.0 AFFECTED ENVIRONMENT AND ENVIRONMENT CONSEQUENCES

3.1 LAND USE

The Fish Creek Property has long been used for forest resource (timber) production; although no active timber harvest is currently in progress. Timber management was administered by the previous owner, Plum Creek Timber Company (PCTC) and its predecessor, Champion International. It was during this latter phase under PCTC ownership that heavy removal of forest canopy was done and the dense network of access roads was constructed into every part of the property south of the Clark Fork River. Parcels north of the river have also been heavily logged by PCTC.

There is a total 521 miles of road within FWP's Fish Creek Property; the majority lies behind locked gates or is impassible due to downed trees or poor road conditions and is not open to public motor vehicles. Most roads are abandoned logging roads, with approximately 115 miles (22 %) open to the motoring public.

The property is designated into two separated management areas. Approximately 6,235 acres south of I-90 adjacent to Fish Creek and the Clark Fork River is designated as the Fish Creek State Park. The remaining acres (~ 34,573) are designated the Fish Creek Wildlife Management Area. Each portion of the property is being managed separately by the Parks Division and Fish & Wildlife Division of FWP but in cooperation to ensure the objectives of the acquisition are met.

Currently, there are no mineral development activities occurring within FWP's Fish Creek Property.

Proposed Action: With the completion of this purchase, over 85% of the hard-rock mineral rights associated with FWP's Fish Creek Property would be owned by FWP. The acquisition of CRMC's rights would ensure the objectives for the property's acquisition are met and are not compromised by future mineral exploration and/or extraction activities.

Land use is under the guidance of the Fish Creek SP and WMA Interim Management Plan, which seeks to balance all the property's resource values while providing appropriate recreation opportunities. (See Fish Creek Acquisition EA/DN for a copy of the Interim Management Plan.)

No Action: Under the No Action Alternative, there is the likelihood that CRMC would attempt to find another buyer for the mineral rights for the Fish Creek Property. The potential intentions of a new buyer are unknown but two possibilities would exist. If the buyer were a mining firm, there is the potential that the new owner would have no intentions of production and would be buying the property as an investment, which could translate into no immediate disturbances to existing conditions. However, if the new mineral rights owner were to decide to

implement exploration activities within the property, typical exploration actions would likely require disturbance or damage to existing surface and subsurface resources. This would increase the probability that habitat functions would be compromised and could decrease the likelihood of public access to these lands to continue for current land uses in the targeted area. The exact level of this risk is unknown since the future impacts to current land uses would be dependent on the actions of the new mineral rights owner(s).

3.2 Vegetation

Plant community distribution primarily is dependent on elevation, aspect, moisture regimes, and fire history. Elevation throughout the Fish Creek Property area varies from approximately 3,150 feet along the main stem of Fish Creek to 6,110 feet at the headwaters of Wig Creek in the southeastern portion. The vegetation patterns and habitat types within the subject area were shaped by large-scale fire events in 1910, 1917, 2003, and 2005, as well as subsequent intensive logging. Approximately 22% of the Property area (9,208 acres) was subjected to wildfires in 2003 and 2005 (USFS 2009). In those locations, re-vegetation of timber has been limited, but shrubs, forbs, and grasses are re-establishing on the landscape. In areas outside of the 2003 and 2005 fire perimeter, commercial logging occurred, leaving a mosaic pattern of timber regeneration.

Lower montane and foothill forest comprise approximately 22,000 acres of the Fish Creek Property area and are dominated by mesic (Douglas-fir [*Pseudotsuga menziesii*], ponderosa pine [*Pinus ponderosa*], western larch [*Larix occidentalis*]) and dry-mesic (Douglas-fir and ponderosa pine) mixed conifer forest types (MNHP 2009a). Vegetation on winter range slopes is comprised primarily of habitat types of the Douglas-fir climax series (Pfister et al. 1977), with ponderosa pine/bluebunch wheatgrass (*Agropyron spicatum*) dominating xeric, southerly exposures at lower elevations (Murphy 1983). Lowland grassland and shrubs cover 7,683 acres of the Property area (MNHP 2009a) and include bluebunch wheatgrass, ninebark (*Physocarpus valvaceus*), and snowberry (*Symphoricarpos albus*).

Cool and moist, to moderately dry subalpine habitat types dominate the upper elevations of many of the tributaries. Common conifers in these areas include lodgepole pine (*Pinus contorta*), subalpine fir (*Abies lasiocarpa*), Engelmann spruce (*Picea engelmannii*), and Douglas-fir.

Within the riparian areas, western red cedar (*Thuja plicata*) habitat types occupy warm and moist sites in drainages on the west side of Fish Creek that have not been exposed and compromised by extensive timber harvest. Seral black cottonwood (*Populus trichocarpa*)-ponderosa pine communities occur along Fish Creek and in some of the side drainages on the east side of the main stem.

The presence of invasive weed species pervades along both active and abandoned roadways, and all other sites that have been disturbed by human activities. Exotic weed species include spotted knapweed (*Centaurea maculosa*), St. Johnswort (*Hypericum preforatum*), sulphur cinquefoil (*Potentilla recta*), and cheatgrass (*Bromus tectorum*). In lesser quantities, there is dalmatian toadflax (*Linaria dalmatica*), leafy spurge (*Euphorbia esula*), common hound's-tongue (*Cynoglossum officinale)*, and meadowhawk weed (*Hieracium pretense*).

Proposed Action: Successful acquisition of the mineral rights from CRMC would guarantee that the existing varieties of vegetation would have the opportunity to regenerate through natural processes without the threat of mineral development disturbances. FWP would continue to implement the 2010 Integrated Pest Management Plan (MFWP 2010) that was specifically designed for the Fish Creek Property to decrease the acres where noxious weeds are present, and over time, overall habitat health is expected to improve.

No Action: By not purchasing the mineral rights for the Fish Creek Property from CRMC, FWP could potentially risk important winter range habitat for elk, white-tailed deer, mule deer, and moose and an important forest carnivore linkage zone connecting the Ninemile Divide with the Bitterroot Mountains and Wilderness to future mineral development activities that could disturb, alter or destroy existing forest and riparian habitats. The exact level of this risk is unknown because the future impacts to vegetation resources would be dependent on the actions of the new mineral rights owner(s).

3.3 Wildlife Species

The Fish Creek drainage is a very high priority, forest-carnivore linkage zone (American Wildlands 2009; Servheen et. al. 2003), with important upland and riparian habitats that provide seasonal and year-round use by a variety of species, especially wintering ungulates. There is a minimum of 182 wildlife species (57 mammals, 115 birds, 5 amphibians, and 5 reptiles) that biologists have either verified on or near the property, or are likely to be found within the drainage. Of those, 31 terrestrial vertebrate Montana Species of Concern[1] (SOC) have been verified or are potentially found within the Fish Creek Property area, with 12 of those identified as Tier 1 species[2] (MFWP 2005, MNHP 2009b). Also, there are 6 potential species of concern (including one Tier 1 species), and one additional Tier 1 species, which was recently removed from the SOC list. All of these numbers represent a minimum estimate, as wildlife biologists have not extensively surveyed the property for wildlife. With all the above-mentioned wildlife resource values, the Fish Creek Property area also provides exceptional hunting, trapping, and wildlife viewing opportunities, as well as access to adjacent roadless areas and the proposed Great Burn Wilderness.

The Fish Creek land acquisition by FWP helped protect the wildlife linkage area from Cyr, west to Tarkio, but especially the linkage zone on the northwest portion of the Property area. As one of the highest wildlife priorities for protection in the Fish Creek area, the most intact portion of the identified linkage zone is included within the WMA and incorporates the South Fork of Nemote Creek and Martel Mountain on the north side of I-90, crossing just east of Tarkio and including Rock Creek to Rivulet on the south side of the Clark Fork River (Servheen et. al. 2003). This linkage zone provides broad-scale landscape connectivity for forest carnivores (grizzly bear [*Ursus arctos*], Canada lynx [*Lynx Canadensis*], wolverine [*Gulo gulo*], and others) from the Mission and Rattlesnake Wilderness areas, through the Ninemile Divide, to the Selway-

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[1] A native animal breeding in Montana that is considered to be "at risk" due to declining population trends, threats to its habitats, and/or restricted distribution. The purpose of Montana's SOC listing is to highlight species in decline and encourage conservation efforts to reverse population declines and prevent the need for future listing as Threatened or Endangered Species under the Federal Endangered Species Act.

[2] Under "Montana's Comprehensive Fish and Wildlife Conservation Strategy," individual animal species were assigned (1 of 4) levels of conservation. Tier 1 is for species of greatest conservation need. Montana Fish, Wildlife & Parks has a clear obligation to use its resources to implement conservation actions that provide direct benefit to these species, communities, and focus areas.

Bitterroot Mountains and Wilderness. Providing connectivity among ecosystems is essential for maintaining viable populations and recovering forest carnivores that are threatened or endangered (under the Federal Endangered Species Act), or are Montana SOC.

Grizzly bear, Canada lynx, and wolverine activity has occurred within the Fish Creek drainage or on its adjacent lands, but there still is much to learn about their overall utilization of these habitats. Grizzly bear activity has been documented to the northeast of Fish Creek in the Ninemile drainage, to the east in portions of Petty Creek, and to the southwest in Kelly Creek, Idaho. With grizzlies continuing to expand their range, biologists expect the subject property to be an important connection to-and-from the Northern Continental Divide, the Selway-Bitterroot, and the Cabinet-Purcell ecosystems.

The Fish Creek drainage also provides significant winter range and other seasonal habitats for 500 elk (*Cervus elaphus*), mule deer (*Odocoileus hemionus*), white-tailed deer (*Odocoileus virginianus*) and moose (*Alces alces*). It also supports diverse populations of predators, furbearers and upland game birds, including black bear (*Ursus americanus*), mountain lion (*Puma concolor*), gray wolf (*Canis lupus*), mountain grouse, and wild turkey (*Meleagriz gallopavo*). The intact, productive riparian corridors of Fish Creek and its tributaries have exceptional habitat for white-tailed deer and moose, while the drier upland slopes provide forage and browse for mule deer. White-tailed deer and mule deer are abundant throughout the year. Moose also are observed quite often, and are occasionally harvested within the subject property.

Mountain lion hunting is popular during the winter season, with approximately 90 lions harvested within the Property area and on its adjacent lands over the last 30 years. From 1979-1982, a graduate student studied hunting pressure and mountain lion populations in the Fish Creek drainage (Murphy 1983). The study revealed average lion densities of 7.1 lions/100km^2. Lion densities fluctuate with the availability of prey species, competition with other lions and other predators, hunting pressure, and environmental conditions. The Fish Creek Property is split between lion (deer/elk) hunting districts (HD) 201, 202 and 203, and since 2008, FWP has managed lions on a permit system in those HDs.

Upland game birds can be found on the subject property and include ruffed grouse (*Bonasa umbellus*), dusky (a.k.a., blue) grouse (*Dendragapus obscurus*), spruce (a.k.a., Franklin) grouse (*Falcipennis canadensis*), and wild turkey (*Meleagris gallopavo*). Merriam turkeys are present in the northern portion of Fish Creek as a result of FWP translocating 34 (14 jakes and 20 hens) in January 2007. As per the initial translocation environmental assessment, two to three follow-up transplants may occur over a 10-year period.

Wolves have been present in Fish Creek since the early 1990s. The first known pack was the Kelly Creek Pack, which used Kelly Creek (Idaho) and the South Fork of Fish Creek for several years beginning in 1991. Biologists speculate that this pack broke off into three separate packs--one of which is now the Fish Creek pack. Currently, four known wolf packs (Cache Creek, Fish Creek, Bitterroot Range, and Big Hole) use the Fish Creek drainage to some extent. FWP had its first wolf-hunting season in 2010, but no wolves were harvested in the Fish Creek drainage.

There have been numerous non-game species surveys within the Property area or adjacent to the Fish Creek Property. The Fish Creek Breeding Bird Survey (BBS) Route, which runs along upper Fish Creek and the West Fork of Fish Creek, recorded 76 bird species between 1995 and 2008. Many of the most common species recorded on the BBS route were species primarily found in riparian habitats, including willow flycatcher (*Empidonax trailii*), yellow warbler (*Denroica petechia*), MacGillivray's warbler (*Oporonis tolmiei*), and song sparrow (*Melospiza melodia*). Cottonwood riparian and wetland areas on the property are limited, yet they support the highest diversity and density of songbird species, relative to other habitats on the property. Riparian and wetland habitats provide breeding sites and travel corridors for amphibians, support the highest density and diversity of small rodents and shrews, and are the most important foraging habitat for most bat species. One-third of the species listed on the SOC or Potential SOC list (Fish Creek Acquisition EA/DN) are either dependent on riparian habitat or use it as one of their primary habitats.

The Avian Science Center (University of Montana) surveyed birds in forested areas in and adjacent to the subject property, including harvested areas and burns and riparian areas. The most common species recorded were Swainson's thrush (*Catharus ustulatus*), American robin (*Turdus migratorius*), chipping sparrow (*Spizella passerine*), and dark-eyed junco (*Junco hyemalis*). These species are typical of second-growth forests in western Montana. The Center also detected several SOC including Cassin's finch (*Carpodacus cassinii*), pileated woodpecker (*Dryocopus pileatus*), calliope hummingbird (*Stellula calliope*), Clark's nutcracker (*Nucifraga Columbiana*), and winter wren (*Troglodytes troglodytes*).

Remnant stands of mature forest on the property are especially important for species such as northern goshawk (*Accipiter gentilis*), brown creeper (*Certhia americana*), fox sparrow (*Passerella iliaca*), golden-crowned kinglet (*Regulus satrapa*), ruby-crowned kinglet (*Regulus calendula*), gray jay (*Perisoreus canadensis*), Hammond's flycatcher (*Empidonax hammondii*), hermit thrush (*Catharus guttatus),* Nashville warbler (*Oreothlypis ruficapilla*), pileated woodpecker, pine grosbeak (*Pinicola enucleator),* Townsend's warbler (*Denroica townsendi*), varied thrush, boreal chickadee (*Poecile hudsonicus*; if present), winter wren, hoary bat (*Lasiurus cinereus*), and silver-haired bat (*Lasionycteris noctivagans*).

The property supports several areas of burned forest that were not salvage-logged. Burned forest provides very important habitat for a variety of wildlife species, when the dead trees are left standing. Species most common in (or in some cases, dependent on) post-fire areas include black-backed woodpecker (*Picoides arcticus*), American three-toed woodpecker (*Picoides dorsalis*), lazuli bunting (*Passerina amoena*), hairy woodpecker (*Picoides villosus*), and olive-sided flycatcher (*Contopus cooperi*). Secondary cavity nesting birds, such as mountain bluebird (*Sialia currucoides*), are often more common in burned forest as they respond to the increased supply of nesting cavities left by higher woodpecker populations.

Low-elevation ponderosa pine (especially mature forest) is especially important for Cassin's finch (*Carpodacus cassinii*), Clark's nutcracker, Hammond's flycatcher, western tanager (*Piranga ludoviciana*), and flammulated owl (*Otus flammeolus*). Mature low-elevation ponderosa pine is relatively rare in western Montana, as historically this was the most accessible forest for commercial timber harvest.

Large diameter snags at mid to lower elevations are especially valuable as roosting sites for maternity colonies of silver-haired bats, long-legged myotis, fringed myotis (*Myotis thysanodes*), California myotis (*Myotis californicus*), and long-eared myotis (*Myotis evotis*). Pileated woodpeckers, flammulated owls, bald eagles (*Haliaeetus leucocephalus*), golden eagles (*Aquila chrysaetos*), and great blue herons (*Ardea herodias*) depend upon large-diameter trees (live or snags) for nesting.

There are active bald eagle and peregrine falcon territories on the Clark Fork River in or adjacent to the property. The rocky outcrops along the river provide nesting and roosting habitat for birds of prey, and potentially support several species of bats, reptiles, songbirds, and mammals. Talus slopes on the property provide roosting habitat for several species of bats, and those with large rocks may support pikas. Full inventory and monitoring efforts have yet to be undertaken to confirm the presence of these and other potentially unidentified species.

Proposed Action: Under the Proposed Action, FWP would ensure no additional disturbances would occur to most of the wildlife linkage area and ungulate winter range habitat unless initiated by FWP, and FWP would maintain current hunting, trapping, and wildlife viewing opportunities within the property.

No Action: If CRMC retained the mineral rights associated with 29,488 acres of the Fish Creek Property and was to sell the rights to another buyer, the level of this risk is unknown because the future impacts to resources and public access would be dependent on the actions of the new mineral rights owner(s). Potentially, if the mineral rights were sold to another mining business, crucial winter range for a variety of ungulates, as well as an important forest-carnivore linkage zone that provides important habitat connectivity to-and-from the Northern Continental Divide, the Selway-Bitterroot, and the Cabinet-Purcell ecosystems could be impacted by mineral exploration and/or development in the future. Furthermore, existing hunting and wildlife viewing opportunities associated with the property could be impacted or interrupted if active mining activities were established.

3.4 Fisheries Species and Water Resources

Fish Creek is the largest tributary basin within the middle Clark Fork River drainage. It is a wild and productive watershed with unusually high fisheries and aquatic value. Fish Creek supports some of the best remaining native fish populations in the area, provides a major source of salmonid recruitment for the Clark Fork River, and offers an excellent trout fishery throughout most of its reaches. Most tributaries within the watershed offer high-quality spawning and rearing habitat for trout. Intact tributary habitat, excellent water quality, consistent instream flows and good connectivity among stream and river reaches have made Fish Creek a stronghold for migratory (fluvial) bull trout (*Salvelinus confluentus*) and westslope cutthroat trout (*Oncorhynchus clarki lewisi*) in western Montana. Fish Creek currently supports more fluvial bull trout redds than all other middle Clark Fork tributaries combined, and the drainage contains numerous (>20) westslope cutthroat trout populations, many of which are genetically non-introgressed (i.e., no hybridization with other species). Other fish species present include mountain whitefish (*Prosopium williamsoni*) and sculpins (*Cottus* spp.), as well as introduced brook trout (*Salvelinus fontinalis*), brown trout (*Salmo trutta*) and rainbow trout (*Oncorhynchus*

mykiss). The main stem and primary forks provide a popular trout fishery that supports more than 2,000 days of angler pressure annually.

FWP's Fish Creek Property includes portions of many tributary streams and key sections of the Fish Creek main stem and South Fork. Parcels in Bear Creek, Deer Creek, Thompson Creek, Surveyor Creek and other tributaries represent important spawning and nursery areas for native trout, as well as key sources of recruitment for the Clark Fork River. Parcels along the main stem and South Fork provide public access for anglers and make up the migratory corridor that connects the upper watershed with the Clark Fork River. Lower reaches (including the mouth) also offer an invaluable thermal refuge for Clark Fork River fish during the summer as water temperatures are typically 8-12° F cooler in Fish Creek.

The Fish Creek Property includes portions of several other, smaller tributary drainages that lie outside of Fish Creek. Two of these, Rock Creek (just west of Fish Creek) and Nemote Creek (north of the Clark Fork River), exhibit perennial flows in upper reaches and support fish. Both of these streams contain non-introgressed westslope cutthroat trout populations in headwater reaches, but neither stream is readily accessible to fish from the Clark Fork River for spawning due to anthropogenic migration barriers (primarily transportation crossings).

Proposed Action: Under the Proposed Action, water resources within the Fish Creek Property would mostly be protected from potential mineral exploration and/or development activities that could threaten existing cold, clean, complex, and connected native salmonid habitat critical to bull trout and westslope cutthroat trout. Historic mining activities in neighboring tributary drainages have consistently had major detrimental effects on fisheries and the natural integrity of stream systems. Additionally, FWP would have the ability to continue its habitat restoration projects for the benefit of imperiled aquatic species, with minimal risk that those restorative activities could be changed by mineral exploration and/or development in the future.

No Action Alternative: If FWP decides not to purchase the mineral rights, it is unknown if any of the water resources would be affected by another buyer's plans if CRMC were to sell the hard-rock mineral rights in the future. If mineral exploration was ever initiated, potentially water resources and fisheries could be influenced (e.g., sediment levels, run-off patterns, etc.) depending on the size and scope of those activities. The exact level of this risk is unknown because the future impacts to resources and public access would be dependent on the actions of the new mineral rights owner(s).

3.5 Recreation Opportunities

Current recreation opportunities consist of (but are not limited to) hunting, hiking, fishing, sightseeing, motorized use, horseback riding, wildlife viewing, and camping.

All of the Fish Creek Property lies within deer/elk HDs 201, 202 and 203. The area is highly valued and heavily used by Montana hunters each fall. FWP has maintained PCTC's previous open access policy and currently manages the property for unrestricted "walk-in" hunting. Below is a summary of hunter usage of the hunting districts in 2008.

	Hunter days	
Hunting District	Deer	Elk
201	16,956	13,803
202	10,954	8,485
203	9,710	9,700
Total	37,620	31,988

FWP manages two Fishing Access Sites (FASs) within its Fish Creek Property south of I-90: Big Pine FAS along Fish Creek and Forks FAS on the West Fork of Fish Creek. These sites are very popular for camping, and facilities at each site include a latrine and five campsites. During the peak season in 2010 (May--September), usage levels for Big Pine FAS were estimated at 8,569 visitors.

Angling is a popular activity within the Fish Creek Property from June through September. Based on FWP mail surveys, the angling days estimated for Fish Creek have been 2,705 in 2005, 1,902 in 2007, and 4,865 in 2009.

Proposed Action: If FWP were to purchase the mineral rights from CRMC, existing public recreation opportunities such as hunting, hiking, fishing, motorized use on open routes, floating, trapping, and camping would be mostly preserved and protected from possible disturbance or inconveniences associated from the initiation of mineral exploration and/or development activities. Recreation would continue to be managed in accordance with applicable FWP rules and regulations and the Property's Interim Management Plan.

No Action: If FWP decides not to purchase the mineral rights, FWP would continue to allow recreation activities appropriate for the Fish Creek SP and WMA zones unless CRMC or its successor were to decide to exercise its right to commence mineral exploration and/or development activities. If such efforts began, FWP would likely need to restrict some recreation opportunities in targeted areas for the duration of the mining activities to ensure the public's safety.

3.6 Air Quality

Proposed Action: There would be no changes to the ambient air quality if FWP were to purchase the mineral rights associated with the Fish Creek Property from CRMC.

No Action: If the mineral rights were sold to another buyer, the exact level of risk of change to ambient quality and existing particulate levels is unknown because the future impacts to the resource would be dependent on the actions of the new mineral rights owner(s).

3.7 Noise and Existing Utility Easements

Proposed Action: There would be no changes to existing noise levels or electrical structures to private in-holdings and easements if FWP were to purchase the mineral rights associated with the Fish Creek Property from CRMC.

No Action: If CRMC were to sell the hard-rock mineral rights to another buyer, the exact level of risk of change to noise levels is unknown because the future impacts to the

resource would be dependent on the actions of the new mineral rights owner(s). If mineral exploration activities were to be initiated, noise levels in the immediate area are likely to increase due to the expected use of heavy equipment. Electrical structures to private in-holdings and easements would not be affected if FWP did not purchase CRMC mineral rights.

3.8 Risk and Health Hazards

Proposed Action: If FWP were to purchase the Fish Creek mineral rights from CRMC, there would be no changes to current risk and health hazards within the property.

No Action: If the hard-rock mineral rights were sold to another buyer, the exact level of risk of changes to risk and health is unknown because the future impacts to the resource would be dependent on the actions of the new mineral rights owner(s). If CRMC's successor were to exercise its right to initiate mineral exploration and/or development activities, FWP would likely need to decrease potential public safety risks through closures of affected areas and placement of appropriate warning signage.

3.9 Public Services, Taxes & Utilities

Proposed Action: There would be no changes to existing public services or utilities if FWP were to purchase the mineral rights associated with the Fish Creek Property from CRMC. This purchase would not change the property taxes FWP pays to Mineral County for FWP's property under § 87-1-603, MCA. FWP is required by § 87-1-603, MCA to pay "to the county a sum equal to the amount of taxes which would be payable on county assessment of the property if it was taxable to a private citizen."

No Action: If the hard-rock mineral rights were sold to another buyer, the exact level of impact to local businesses is unknown because it would be dependent on the actions of the new mineral rights owner(s). If mineral exploration and/or development activities were initiated, some local or regional businesses might receive a positive impact if supplies or equipment were purchased from them, some local persons might gain employment, and/or the county could experience increased tax revenues.

3.10 Cultural & Historical Resources

Prior to the property's acquisition by FWP, the Montana State Historic Preservation Office (SHPO) completed a cultural resource file search for the Fish Creek Property and reported that there are a few previously recorded sites within the Property area. Most of the sites are associated with the historic Mullan Road, Milwaukee Railroad, and stage services along the Clark Fork River corridor. A fire lookout tower is also present on the property.

The Fish Creek Property is located within and surrounded by lands that have been historically supported by mining districts, with most of the mining districts located along the Clark Fork River. These mining districts focused on the extraction of gold, silver, copper, lead and zinc.

Proposed Action: There would be no changes to previously identified cultural or historic resources if FWP were to purchase the mineral rights associated with its Fish Creek Property from CRMC. FWP's proposed purchase would have a positive effect on any cultural or historical resources by securing and managing them in public ownership, because all state

agencies are required by Montana law (§ 22-3-433, MCA) to consult with the historic preservation officer (SHPO) on the identification and location of heritage properties on lands owned by the state.

No Action: If the hard-rock mineral rights were sold to another buyer, the exact level of risk to recorded and unknown cultural and historic resources would be unknown, because the future impacts to the resource would be dependent on the actions of the new mineral rights owner(s). Additionally, if mineral exploration and/or extraction effort were planned by CRMC or its successor, that owner would be required to obtain the necessary permits and licenses through Montana Department of Environmental Quality. As part of that permitting process, SHPO would also be contacted to ensure cultural and historic resources are not at risk of disturbance or destruction.

3.11 Cumulative Impacts

Proposed Action: The acquisition of CRMC's hard-rock mineral rights under the Fish Creek Property by FWP would mostly remove the threat of additional disturbances to wildlife habitat from mining exploration and/or extraction actions in the future. In areas previously affected by wildfires and timber harvest activities, vegetation would be allowed to reestablish itself. The cumulative benefits of healthy forest vegetation would contribute to: a reduction of sediment run-off, benefiting water quality and fisheries; additional forage and cover for all wildlife species that would contribute to greater populations of species in the area; and an aesthetically pleasing environment in which the public could recreate. Existing recreational opportunities would continue to be available to visitors of the state park and wildlife management area portions of the Fish Creek Property.

The proposed purchase would contribute to the preservation of the wildlife corridors between the Cabinet-Purcell, Northern Continental Divide, and Bitterroot Ecosystems, which is essential for recovering threatened, endangered, and SOC species and maintaining viability of numerous other wide-ranging species such as elk, black bear and mountain lion.

No Action: If no action were taken by FWP, the potential sale of the hard-rock minerals rights to another mining company or individuals is likely by CRMC. If the new mineral rights owner(s) were to move forward with exploration and/or excavation activities, such actions could contribute to the further degradation of existing resource values within a property whose landscape has already been influenced by past timber harvest and wildfires. Maintaining crucial winter range for ungulate populations may be compromised under the no-action alternative, and a cumulative loss of threatened, endangered, and/or SOC fish and wildlife species could occur.

The results of the mineral assessment report (in conjunction with FWP's Fish Creek acquisition) concluded the potential for metallic mineral occurrence with the Fish Creek Property was low. However, there is economic potential for sand and gravel development/extraction within the Property that the next owner of the hard-rock mineral rights may investigate. Cumulative impacts of a future owner's activities are difficult to identify or estimate at this time because FWP does not know who the buyer or the buyer's intentions might be.

4.0 NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT

Based on the significance criteria evaluated in this EA, is an EIS required? No. Based upon the above assessment, which has identified a very limited number of minor impacts from the proposed action, an EIS is not required and an environmental assessment is the appropriate level of review.

5.0 PUBLIC PARTICIPATION

5.1 Public Involvement

The public will be notified in the following manners to comment on this Draft EA, the proposed action and alternatives:

- One statewide press release;
- Two legal notices in each of these newspapers: *Independent Record* (Helena), *Missoulian,* and *Mineral Independent* (Plains);
- Direct mailing to adjacent landowners and interested parties;
- Public notice and posting the EA on the Fish, Wildlife & Parks website at *http://fwp.mt.gov*.

Copies of this EA will be available for public review at FWP Region Headquarters in Missoula and Helena and on the FWP website. This level of public notice and participation is appropriate for a proposal of this scope having few limited physical and human impacts.

5.2 Duration of Comment Period

The public comment period will extend for a minimum of thirty (30) days beginning May 26th. Comments will be accepted until 5:00 p.m. on June 27, 2011 and can be directed by mail to:

Montana Fish, Wildlife & Parks
Attn: Rebecca Cooper
PO Box 200701
Helena, MT 59620-0701;

or by email to rcooper@mt.gov; or by phone to 406-444-4756 (Rebecca Cooper).

Questions regarding this proposal should be directed to Darlene Edge (FWP Lands) at 406-444-4042 or dedge@mt.gov.

5.3 Anticipated Timeline

Public comment period: May 26th--June 27th
Property submitted to FWP Commission for consideration: August 11th
Property submitted to the Montana Land Board for consideration: August 15th

5.4 Offices/Programs contacted or contributing to this document:

Montana Department of Environmental Quality
Montana Fish, Wildlife & Parks:
Regional Fisheries Bureau, Missoula

Lands Bureau, Helena
Legal Bureau, Helena
Regional Parks Division, Missoula
Regional Wildlife Bureau, Missoula
Montana State Historic Preservation Office, Helena
U.S.D.A Natural Resources Conservation Service, Soil Survey Database

6.0 EA Preparation

Rebecca Cooper, FWP MEPA Coordinator, Helena, MT
Darlene Edge, FWP Lands Agent, Helena, MT
Vickie Edwards, Region 2 FWP Area Wildlife Biologist, Missoula, MT
Mike Thompson, Region 2 FWP Wildlife Manager, Missoula, MT
Pat Saffel, Region 2 FWP Fisheries Manager, Missoula, MT

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