Montana Fish, Wildlife & Parks

Region 2 Headquarters
3201 Spurgin Road
Missoula, MT 59804-3101
406-542-5500
July 27, 2011

Dear Interested Citizen:

Enclosed you will find the Decision Notice (DN) for a Montana Fish, Wildlife & Parks (FWP) Draft Environmental Assessment (EA) concerning its proposal to acquire the hard-rock mineral rights (HRMR) for 29,488 acres of its 40,806-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, which was acquired in 2010 and is located west of Alberton in Mineral County. This 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.

This DN is available for review in Helena at FWP's Headquarters, the State Library and the Environmental Quality Council. It also may be obtained from the Region 2 FWP Headquarters or viewed on FWP's Internet website at http://fwp.mt.gov ("News," then "Public Notices").

In consideration of the Draft EA and the DN, we will recommend that the Fish, Wildlife & Parks Commission approve this proposed purchase of the hard-rock mineral rights for FWP's Fish Creek property, at its August 18th meeting in Helena. Approval will also be necessary from the Montana Board of Land Commissioners. Both the Commission and Land Board meetings are open to the public.

Sincerely,

Mack Long
Regional Supervisor

Lee Bastian
Regional Parks Manager

ML/sr

**DECISION NOTICE**
**For Draft Environmental Assessment for**
**Proposed Mineral Rights Acquisition:**
**Fish Creek State Park and Fish Creek Wildlife Management Area**

Montana Fish, Wildlife & Parks
Region 2
3201 Spurgin Road, Missoula MT 59804
406-542-5500

July 27, 2011

## DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks (FWP) proposed to acquire the hard-rock mineral rights (HRMR) from CR Montana Corporation (CRMC, a wholly owned subsidiary of Canyon Resources) for 31,500 acres of its 40,807-acre Fish Creek Wildlife Management Area and State Park (Fish Creek Property). The acquisition will add to the Department's current ownership of approximately 5,000 acres of HRMR on the Fish Creek Property (the other 5,307 acres is retained by the federal government). The "Fish Creek Property" is in the Bitterroot Mountains south of Tarkio, in Mineral County, Montana and part of the Middle Clark Fork River watershed. FWP's Fish Creek Property includes Fish Creek State Park (SP, approx. 6,234 acres) and Fish Creek Wildlife Management Area (WMA, approx. 34,572 acres).

In April 2010, FWP acquired the Fish Creek Property from The Nature Conservancy (TNC). The objectives for the Fish Creek land 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.

## ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

**No Action: FWP would not purchase the CRMC 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 SP and Fish Creek WMA. CRMC would likely continue to pursue other selling options and potential buyers for its mineral rights. The possibility exists that 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.

## PUBLIC PROCESS

A Draft Environmental Assessment (EA) was completed for the proposed action by FWP and released for public comment on May 26, 2011 through June 27, 2011.

Legal notices announcing the availability of the EA were published in the *Independent Record* (Helena; May 26, June 2), *Mineral Independent* (Plains; May 25, June 8), and *Missoulian* (May 26, June 2). A state-wide news release concerning the proposal and the EA was distributed June 24. In addition to these announcements, the EA was posted on FWP's webpage at http://fwp.mt.gov/news/publicNotices/environmentalAssessments/acquisitionsTradesAndLeases/pn_0096.html from May 26 through June 27.

Copies of the EA were mailed to 39 interested parties (individuals, groups, and government agencies), postcard notification of the EA's availability was mailed to 133 interested parties (including 47 adjacent landowners); and email notification of the EA's availability was emailed to 110 interested parties.

## SUMMARY OF PUBLIC COMMENT

FWP obtained public comment by email and mail from May 26 until 5:00 P. M. on June 27, 2011. A total of 15 individuals, organizations, and government agencies submitted comments for the record. The 10 individual commenters were distributed geographically as follows: From Montana there were 3 from Alberton, 1 from Emigrant, 1 from Missoula, and 1 from Superior; plus 1 from Post Falls, ID (3 commenters did not indicate a town). Non-individuals submitting comments included 4 non-governmental organizations and 1 public agency. All comments are listed in Appendix A.

A total of 13 individuals and organizations (87% of all who commented) indicated support for FWP to purchase the Fish Creek Property's hard-rock mineral rights. Two registered opposition

to FWP acquiring the mineral rights. The comments in opposition challenged that FWP needed to control mineral exploration and development in order to manage habitat and recreation.

**DECISION**

Based upon the Environmental Assessment and the applicable laws, regulations, and policies, we have determined that the proposed action will not have measureable effects on the human and physical environments associated with this project. Therefore, we conclude the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is unnecessary.

The acquisition of hard-rock mineral rights would consolidate the surface and subsurface estates, which many in the public already take for granted. By acquiring subsurface rights, FWP seeks to protect and conserve the surface as wildlife habitat and a recreational resource, and limit any future surface removal by a third party. Failure to acquire these rights would leave the Fish Creek Property and FWP's investments vulnerable to the independent objectives and direction of the holder of hard-rock mineral rights.

In consideration of these facts, we are pleased to recommend to the Fish, Wildlife and Parks Commission that it approve the proposed Fish Creek SP and Fish Creek WMA hard-rock mineral rights acquisition.

Mack Long, Regional Supervisor
Region 2 FWP

Date 7/27/11

Lee Bastian, Regional Parks Manager
Region 2 FWP

Date 7/27/11

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APPENDIX A. Comments on Hard-Rock Mineral Rights Acquisition EA proposed for FWP's Fish Creek Property (received by FWP by the comment deadline)

| Com-ment # | Para-graph # | Comment |
|---|---|---|
| 1 | | I support the acquisition by FWP of the remaining mineral rights under the Fish Creek WMA. |
| 2 | | The purchase of the hard rock mineral rights by FWP seems like a great idea. The Fish Creek area is a MT jewel and should be protected at all costs. |
| 3 | | I support the Proposed Mineral Rights Acquisition purchase at Fish Creek State Park and Fish Creek Wildlife Management Area. I would have thought the mineral rights were part of the original purchase, and would highly recommend in the future that you make sure that is the case. |
| 4 | | I strongly support the acquisition of mineral rights in the Fish Creek drainage. I believe it is important to protect the public's interest in the health of this drainage, and to see it destroyed so that a few may make a profit would be a shame. |
| 5 | | Buying up mineral rights to stop mineral development is not required to promote fish and wildlife habitat or to promote recreation. Creating defacto wilderness areas should not be part of the FWP mandate. |
| 6 | | I'm glad to see the Department take action to remove the threat of sand and gravel development from conservation lands. My grandparents were original homesteaders in the Fish Creek area. So much has changed in that drainage since my childhood. Hurray for you. |
| 7 | 1 | Although I continue to have reservations about the establishment of a large state park less than 2 miles from my residence, I do support the acquisition of mineral rights as outlined in the May 26, 2011 draft EA. |
| | 2 | Please keep me informed of future developments. |
| 8 | | *See pg A-2 for letter from the Clark Fork Coalition* |
| 9 | 1 | I recently read Rob Chaney's article in the June 4th Missoulian describing the Department of Fish Wildlife and Park's plans to purchase the mineral rights in the Fish Creek area. I heartily commend your efforts to protect this area for the future by controlling not only the surface but the sub-surface rights. This is good sound planning and a wise use of tax-payers' money. If only farmers and ranchers in the Otter Creek area and elsewhere in Eastern Montana could do the same. |
| | 2 | Thank you for your work to protect the Montana environment. |
| 10 | 1 | Not supportive of FWP purchasing the mineral rights. |
| | 2 | Believes FWP should keep out of economics and stopping jobs from becoming established. |
| | 3 | Stated that hard rock mining is not hurting anything. |
| | 4 | FWP should keep its nose out of hard rock mining. |
| 11 | | *See pg A-3 for letter from the Montana Chapter of the Backcountry Hunters & Anglers* |
| 12 | 1 | I am pretty inexperienced when it comes to mineral rights and all that entails but I am a true advocate for the exceedingly special place that is Fish Creek. According to other FWP personnel, Fish Creek is the pristine place that it is because of little or no development. |
| | 2 | To keep my message simple, please, please, please protect this symbol of the last, best place. Please buy the mineral rights to keep Fish Creek as we know and love it. |
| | 3 | It would be gut-wrenching to see the minerals mined and the land destroyed in the process. To mine those minerals would be in contradiction of your objectives for originally acquiring the Fish Creek land form TNC to begin with. So, look at your objectives, stick to them and finish what needs to be done. |
| | 4 | Thank you for the opportunity to share my opinion. |
| 13 | | *SEE pg A-4 for letter from the Hellgate Hunters & Anglers* |
| 14 | | *SEE pg A-5 for letter from the Great Burn Study Group* |
| 15 | | *SEE pg A-7 for letter from the Mineral County Commissioners* |

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CLARK FORK COALITION

June 6, 2011

Mack Long, Region 2 Supervisor
c/o Rebecca Cooper
Montana Fish Wildlife and Parks
3201 Spurgin Road
Missoula, Montana 59804

*RE: Comments on the EA to Acquire HRMR for Fish Creek WMA*

Dear Mr. Long,

The Clark Fork Coalition appreciates the opportunity to write in support of Montana Fish Wildlife and Parks' (FWP) proposed acquisition of hard rock mineral rights (HRMR) in the Fish Creek drainage in the middle Clark Fork watershed. The Proposed Action to purchase the HRMR on 29,488 acres of FWP's Fish Creek property will help protect vital natural resources and important recreation assets for our watershed's residents.

The Clark Fork Coalition is an organization supported by 2,700 members dedicated to protecting and restoring the 22,000 square-mile Clark Fork River watershed. Fish Creek is the largest tributary to the middle Clark Fork River and one of the best native trout strongholds in the entire basin. This drainage is important habitat for the threatened bull trout as well as the myriad fish and wildlife that need clean waters and intact lands to survive and thrive. In addition, our communities and economies depend upon clean water, and will benefit from ensuring no future mining activities impact Fish Creek.

We support the acquisition and retirement of HRMA associated with lands in FWP's Fish Creek Wildlife Management Area because it will maintain clean, connected waters and preserve a large unfragmented landscape. By ensuring that no future exploration or extraction activities will take place in this tributary watershed, FWP will also protect the substantial restoration and conservation investments already made to-date in from the Clark Fork River's headwaters near Butte to its mouth at Lake Pend Oreille.

We are in full support of FWP purchasing the HRMR on Fish Creek project lands. The Coalition commends the Department's efforts to maintain working landscapes that protect our watershed's celebrated rivers and streams, as well as the fish, wildlife, and communities they support.

Thank you for your time.

Sincerely,

Brianna Randall

Brianna Randall
Water Policy Director

**PO Box 7593**
**Missoula, MT 59807**
**406/542-0539 Phone**
**406/542-5632 Fax**

# Montana Chapter

Adventure Begins Where the Roads End

1295 Lena Lane
Missoula, MT 59804
June 16, 2011

Rebecca Cooper
MT Dept Fish Wildlife and Parks
PO Box 200701, Helena, MT 59620-0701

Dear Ms Cooper:

Montana Chapter of Backcountry Hunters and Anglers expresses its wholehearted support of proposed acquisition of hard rock mineral rights on 29,844 acres of the Fish Creek Wildlife Management Area.

Our members are committed to habitat protection of both important wildlife and fish habitats, including those in the Fish Creek area of western Montana. Many of us have a long history of hunting and fishing in the drainage, and welcomed recent public acquisition of 40,000 acres including surface rights to be managed by Montana Department of Fish Wildlife and Parks. We understand restoration of unneeded roads is already occurring.

Separated mineral estates leaves open the risks associated with mineral exploration and development. Acquiring mineral rights on a large percentage of these lands will reduce the risk of surface disturbance detrimental to both wildlife security and water quality. Roads and other scars from mineral exploration are all too common legacies across Montana.

Thank you for the opportunity to comment.

s/greg munther
Greg Munther
Chairman, Montana Chapter

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Hellgate
HUNTERS & ANGLERS
PO Box 7792
Missoula, MT 59807
406-542-3144
hellgatewildlife@yahoo.com
www.huntingandfishingjournal.org

Rebecca Cooper
FWP
PO Box 200701
Helena, MT 59620-0701

June 27, 2011

Dear Ms. Cooper:

Hellgate Hunters and Anglers is a Missoula-based rod and gun club that works to conserve Montana's wildlife, wild places, and fair-chase hunting and fishing heritage.

We are on record as supporting the Montana Department of Fish, Wildlife & Parks' purchase of the Fish Creek Wildlife Management Area and State Park and were pleased to see the deal completed.

To ensure that these lands can be managed most effectively for fish and wildlife, we enthusiastically support the purchase of the 29,488 acres of hard-rock mineral rights from the CR Montana Corporation.

We feel that the negotiated price of $147,438 represents a good investment for the department because the purchase helps prevent the owner of the mineral rights from exercising those rights in ways that conflict with the department's management objectives for Fish Creek.

Thanks for the opportunity to comment.

Land Tawney, President

*Hellgate Hunters and Anglers is dedicated to conserving Montana's wildlife, wild places, and fair-chase hunting and fishing heritage.*

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GREAT BURN
STUDY GROUP
SINCE 1971

1434 Jackson Street
Missoula, Montana 59802
PHONE 406 240-9901
FAX 406 829 1501

June 27, 2011

Mack Long, Regional Supervisor
FWP Region 2
3201 Spurgin Road
Missoula, MT 59804

Dear Mack:

Please accept the following comments on behalf of the Great Burn Study Group (GBSG). We appreciate the opportunity to comment on the Montana Fish Wildlife and Parks' proposal to acquire hard-rock mineral rights in the Fish Creek drainage. GBSG is a local conservation organization based in Missoula. Our mission is to conserve the wild and remote character of the northern Bitterroot Mountains along the Montana/Idaho stateline. Fish Creek is of great importance to GBSG, not only because of its proximity to the proposed Great Burn Wilderness, but also because of the drainage's local and regional significance for wildlife and native fisheries.

As you know, national, regional and state government wildlife agencies and other organizations have identified the Fish Creek area as a high quality wildlife corridor and part of a regional wildlife movement zone linking the Selway-Bitterroot, the Northern Continental Divide and Cabinet-Purcell ecosystems. Locally, Fish Creek is part of a wildlife linkage zone between the Ninemile Valley and the Fish Creek/Petty Creek area. In addition, a well-known wildlife movement area exists between Burdette Creek and the proposed Great Burn Wilderness which provides passage for elk moving to crucial winter range. The Fish Creek drainage is also a stronghold for genetically pure westslope cutthroat trout and one of the few breeding areas for migratory bull trout.

GBSG supports FWP's proposal to acquire the mineral rights in order to prevent development activities that could disturb, alter or destroy Fish Creek's existing forest and riparian habitats. FWP's acquisition of these mineral rights will protect wildlife/fisheries and wilderness values for Fish Creek and for the proposed Great Burn Wilderness respectively. These values include exceptional hunting, fishing, and wildlife viewing opportunities, as well as access to adjacent wild and remote roadless country and the proposed Great Burn Wilderness. In addition, the acquisition will also preserve the important forest carnivore linkage zone between the Northern Continental Divide, the Cabinet-Purcell and the Selway-Bitterroot ecosystems.

Thank you for the opportunity to comment. The proposed mineral acquisition by FWP represents a remarkable opportunity to protect wildlife and fisheries values in Fish Creek. GBSG appreciates the efforts FWP is making to protect the habitat of this very special place.

Sincerely,

Dale

Dale Harris
Executive Director

Beverly Dupree
Policy and Field Studies Director

cc: Debbie Austin, Lolo National Forest Supervisor, USFS
Sharon Sweeney, Ranger, Superior Ranger District, USFS
Chad Benson, Ranger, Ninemile Ranger District, USFS
Chris Ryan, Wilderness Specialist, Region One, USFS
Vickie Edwards, Wildlife Biologist, MTFWP
Larry Jakub

**MINERAL COUNTY BOARD OF COMMISSIONERS**

PO Box 550
300 River Street
Superior, MT 59872
Phone (406) 822.3577
Fax (406) 822.3552
mccommissioners@co.mineral.mt.us

June 27, 2011

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

RE: Proposed Mineral Rights Acquisitions – Fish Creek Area, Mineral County

Dear Ms. Cooper:

Thank you for the opportunity to comment on your proposal to acquire from CRM Corp. the remaining hard-rock mineral rights in the Fish Creek WMA and State Park. As Mineral County's chief elected officials, we were intricately involved with the transfer of this property to public ownership, approved of the goals as in the best interests of the people of Mineral County, and recommend this acquisition. Further, we agree that the use of USFWS Pittman-Robertson Wildlife Restoration Funds is appropriate for this purpose under the "protecting or maintaining habitat conditions for fish or wildlife species by placing land under public control or ownership".

Your EA clearly shows the potential for future commercial activity in this area under the No Action Alternative, and such activity would likely diminish the success of reaching many of the goals and objectives that defined the purpose of public acquisition of this property, and we encourage you to proceed with this proposal.

Sincerely,

Mineral County Commissioners

Duane H Simons

Duane Simons, Chairman

Clark Conrow, Member

Roman Zylawy, Member