Montana Fish, Wildlife & Parks

May 8, 2010

Ladies and Gentlemen:

You recently received documents regarding the Montana Fish, Wildlife & Parks (FWP) proposal to purchase a conservation easement from Pheasants Forever, owner of the Coffee Creek property. This conservation easement constitutes 800 acres in Fergus County, Montana. The land is located approximately 6 miles north of Denton, Montana.

Comments received regarding the Pheasants Forever-Coffee Creek Conservation Easement Proposal are summarized in the enclosed Decision Notice. Modifications to draft environmental assessment language are included and adopted as an addendum to that document. Please consider your previous copies of the Environmental Assessment and Management Plan along with the amendments contained within this Decision Notice as final.

This Decision Notice 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 4 FWP Headquarters or viewed on FWP's Internet website at http://fwp.mt.gov ("Recent Public Notices").

In consideration of public comment addressing the Draft EA & Management Plan and then this Decision Notice, I am pleased to recommend that the Fish, Wildlife and Parks Commission approve purchase of the Pheasants Forever-Coffee Creek Conservation Easement at its May 13th meeting in Helena. Approval will also be necessary from the Montana Board of Land Commissioners.

Thank you very much for your interest and involvement.

Sincerely,

Gary Bertellotti /s/

Gary Bertellotti
Region 4 Supervisor
Montana Fish, Wildlife & Parks
4600 Giant Springs Rd.
Great Falls, MT 59405
(406) 454-5840

Decision Notice
Pheasants Forever-Coffee Creek Conservation Easement
Environmental Assessment

Prepared By:
Montana Fish, Wildlife and Parks
Region 4 Wildlife Division
4600 Giant Springs Road
Great Falls MT 59405

May 8, 2010

INTRODUCTION

Montana Fish, Wildlife & Parks (FWP) has the authority under law (MCA 87-1-201) to protect, enhance and regulate the use of Montana's fish and wildlife resources for public benefit now and in the future. In 1987, the Montana Legislature passed House Bill (HB) 526, which earmarked hunting license revenues to secure wildlife habitat through lease, conservation easement or fee title acquisition (MCA 87-1-241 and 242). This is now referred to as FWP's Habitat Montana Program. Habitat Montana recognizes that certain native plant communities constituting wildlife habitat are worthy of perpetual conservation. Those communities include intermountain grasslands, sagebrush grasslands and riparian corridors. Further, the Montana Upland Game Bird Habitat Enhancement Program fosters management and improvement of upland bird habitats. The Pheasants Forever-Coffee Creek Conservation Easement includes such habitats and warrants conservation considerations. Both of these programs will contribute funding to the Easement. A conservation easement was offered to FWP by Pheasants Forever for the Coffee Creek property. This offer reflects the Landowner's desire to maintain and protect existing public use and access opportunities while maintaining and/or enhancing wildlife habitats. This easement would ensure the property remains in private ownership and operation, while preserving important agricultural lands, wildlife habitats, open space and historic sites. The easement would guarantee reasonable public access for hunting and wildlife viewing on the project area. As with other FWP property interest proposals, the Montana Fish, Wildlife & Parks Commission must approve any easement acquisition proposed by the agency. In addition, the Montana Board of Land Commissioners is also required to review and approve the Department's proposal for this conservation easement acquisition as this action has a value greater than $100,000 and is larger than 100 acres. This Decision Notice is part of that evaluation process.

Since the Pheasants Forever-Coffee Creek project meets and/or exceeds all qualifications of the Habitat Montana and Upland Game Bird Habitat programs, the FWP Region 4 Supervisor recommends that the Fish, Wildlife & Parks Commission approve the purchase of the proposed conservation easement.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess impacts to the human and physical environment under the Montana Environmental Policy Act (MEPA). The FWP/ Pheasants Forever-Coffee Creek Conservation Easement proposal and its effects were documented by FWP in an Environmental Assessment.

PUBLIC COMMENT

A 30-day period for public comment, April 1, 2010 through April 30, 2010, was established for the Draft Environmental Assessment (EA). Public notice of the proposed action was placed in the Lewistown News Argus and Great Falls Tribune newspapers. On March 30th approximately 60 copies of the Draft EA, Management Plan and Socio-Economic Assessment were distributed by hand, US Postal Service, or electronically to adjacent Landowners, sportsmen groups, County Commissioners and other interested parties. During the indicated comment period copies were also available to the public at the FWP Region 4 Headquarters and Lewistown Area Office. A public meeting/hearing was held at the Lewistown Area Office - FWP on April 15, 2010.

All comments received remain on file at the Great Falls FWP office and are available for public review. Consideration and evaluation of public comment is distilled in the attached Public Comment and Issues Addendum to the EA.

Public Meeting & Hearing: As mentioned above, a public meeting was held at the Lewistown Area Office - FWP on April 15, 2010, with approximately 45 individuals attending. Additional FWP representation included: Region 4 Wildlife Manager Graham Taylor, Region 4 Lewistown Area Biologist Tom Stivers, Habitat Bureau Chief Steve Knapp and Upland Game Bird Habitat Program Coordinator Debbie Hohler. Meeting officer Graham Taylor explained the format and purpose of the meeting. Copies of the EA and Management Plan were made available to all attendees, as was a comment sheet. An informational presentation by PF representative Craig Roberts was followed by Tom Stivers, representing the crucial elements of the proposed easement. An informative question and answer session ensued. Following explanation of the opportunities for public comment (electronic comment, oral comment at this hearing and/or with the written word), oral comment for-the-record was solicited. None was received.

Written Comments:

Written comments totaled 68 timely responses which are considered in the following analysis and response: Sixty-six (66) responses endorsed the "Proposed Action Alternative" of the EA; zero (0) responses opposed the "Proposed Action" or supported the "No Action Alternative"; and two (2) responses neither supported nor opposed either Alternative of FWP purchasing a Conservation Easement on Pheasants Forever - Coffee Creek, but merely provided input and suggestions. Further summary analysis of comment follows:

Comments opposed to FWP purchasing Conservation Easement (support "No Action").....0

Comments supporting FWP purchasing Conservation Easement (support "Proposed Action").....66

- Comprised of 9 conservation organizations, 1 business, and 56 individual or family responses; all were from Montana residents except for Alaska (1), Alberta (2), North Dakota (1), Washington (2).

Comments neither supporting nor opposing FWP purchasing Conservation Easement.....2

Total comments received.....68

The responses are included in a Public Comment and Issues Addendum attached to this Decision Notice.

FINDING OF NO SIGNIFICANT IMPACT

Based on analysis in the EA and in consideration of public comment addressed in the Addendum, FWP has selected the preferred "Proposed Action" alternative. This decision is in the best interest of the public, wildlife and wildlife habitat resources and is consistent with current Habitat Montana and Upland Game Bird Habitat Program guidelines, goals and objectives. FWP has reviewed the EA and applicable laws, regulations and policies and has determined that this action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement is not necessary.

MODIFICATIONS TO ENVIRONMENTAL ASSESSMENT AND MANAGEMENT PLAN

Modification to the EA and Management Plan is necessary. It was pointed out in one public comment, and by the landowner and FWP, that the EA and Management Plan implied that the landowner could not renew or extend CRP contracts or participate in other USDA programs that would benefit the "Conservation Values" of the "Deed of Conservation Easement", which isn't the intent. Therefore this Decision Notice is changing the word "will" to "could" in the Land Use section of the EA, top of page 10, to now read "The better soils, of the acreage currently enrolled in the USDA Conservation Reserve Program, 'could' be farmed when those contracts expire (current contracts expire in 2013 and 2019)." Similarly, in the Management Plan the second sentence of the first paragraph in the Management of Cropland section on page 5, the wording "to be" is changed to "that could be". That sentence now reads, "Of these 480 acres the better soils (206 acres) have been identified as future farm/cropland, 'that could be' farmed when CRP contracts expire (scheduled to expire in 2013 and 2019).

DECISION

Utilizing the Environmental Analysis, Management Plan, Socio Economic Analysis and public comment, a decision must be rendered by FWP that addresses the interests and issues identified for this proposed project. Given results of FWP's analysis coupled with public comment, FWP's purchase of this conservation easement from Pheasants Forever utilizing Habitat Montana and Upland Game Bird Habitat funds is warranted. After review of this proposal and the corresponding public support and comment, it is my recommendation that FWP purchase a conservation easement from Pheasants Forever subject to approval by the FWP Commission.

CONCLUSION

By notification of this Decision Notice, the draft EA is hereby made the final EA as amended above. The finding of selection for the preferred "Proposed Action" alternative is the product of this Decision Notice.

Gary Bertellotti /s/

Gary Bertellotti
Region 4 Supervisor
Montana Fish, Wildlife & Parks
4600 Giant Springs Rd.
Great Falls, MT 59405

May 8, 2010

MONTANA FISH, WILDLIFE & PARKS
FWP/ Pheasants Forever-Coffee Creek Conservation Easement
Environmental Assessment

Public Comment and Issues Addendum

Public comment was solicited on the draft Environmental Assessment "Pheasants Forever-Coffee Creek Conservation Easement" from April 1, 2010 through April 30, 2010. Written comments totaled 68 responses, all of which were received in a timely fashion and were included in the analysis. Sixty-six (66) responses endorsed the "Proposed Action" of the EA; zero (0) respondents opposed the "Proposed Action" or supported the "No Action Alternative"; and two (2) respondents neither supported nor opposed FWP purchasing a Conservation Easement from Pheasants Forever. Further analysis of comment follows:

Comments opposed to FWP purchasing Conservation Easement (support "No Action").....**0**
Comments supporting FWP purchasing Conservation Easement (support "Proposed Action").....**66**

- Comprised of 9 conservation organizations, 1 business, and 56 individual or family responses; all were from Montana residents except for Alaska (1), Alberta (2), North Dakota (2), Washington (2).

Comments neither supporting nor opposing FWP purchasing Conservation Easement.....**2**

Total comments received.....**68**

Issues and Comments:

The vast majority of responses were very supportive of the proposed management plan and of FWP purchasing a conservation easement on the PF Coffee Creek property. Also apparent was that a good number of the respondents were familiar with the property, its development over time, had hunted the property or in the area, and that many did not reside in Fergus County.

A representation of the supporting comments follows: a showcase property; well managed; an example of how bird habitat should be managed; quality, free bird hunting opportunities have declined – need more areas like this; also great for other wildlife species like deer and nongame; funds would help PF maintain property and do more such projects; compatible with agriculture; positive economic benefits to area; good central location for Montana hunters; helps sustain bird hunting; good for youth and next generation of hunters; connects 2 DNRC parcels and expands hunting opportunities; need more such collaborations; good investment; visionary; and can't imagine anyone objecting to the proposal.

Two respondents neither supported nor opposed the proposal. One of these was from the Northeastern Land Office of DNRC. Their salient points were that PF was in compliance with their lease, that the proposed grazing plan and AUMs would comply with DNRC grazing lease, that PF should continue their efforts on weed control, and should PF (landowner) ever have to restrict public access to their property they could not restrict public use of DNRC land.

Another comment neither supporting nor opposing the proposal was from one landowner who owns property 1 mile to the north, a portion of which parallels a 1.5 mile long stretch of dirt, county road, which borders DNRC public land, which hunters use to access the DNRC land, which when wet can get rutted by increased vehicular use. FWP addressed this issue with Fergus County Commissioners. Some of that discussion is here reiterated: there are other similar situations in Fergus County; this is not a new situation nor will it be affected or exacerbated by the conservation easement; signs can be erected instructing users that this stretch of county road is impassible when wet; and that FWP has increased enforcement patrols in this area, and such FWP patrols will continue.

Five respondents had more pointed comments and suggestions. Some of the suggestions were general in nature, such as: fences to be constructed for the grazing system should be hunter, dog and wildlife friendly; the Socio-Economic Assessment should have been more overt in pointing out the economic benefits to the community from hunters; a desire for some vehicular access for disabled hunters; and for PF to offer to FWP the first right to obtain the property should PF ever decide, or need, to relinquish ownership. A few other comments were less general, but had no real bearing on the "Conservation Values" and FWP's interests in this conservation easement. An example was a comment pointing out a minor discrepancy in DNRC landownership between maps in the EA and Management Plan (the DNRC land of comment is peripheral to the Coffee Creek property). Such kinds of comments were not germane to the conservation easement, nor here addressed.

Received comments pertaining to the EA and Management Plan that were/are relevant to the proposed conservation easement are addressed here. Regulating public, hunting, or recreational use was the subject of several comments. The "Deed of Conservation Easement" addresses the concerns raised: recreational use will not be counted toward the minimum 400 hunter days of public hunting; restricting hunter days once the minimum number is reached would require mutual agreement of Landowner and FWP; recreational use is permitted when accessed from the designated parking area, and when recreational use does not hinder the "Conservation Values"; and should the designated parking area become defunct for any reason another designated parking area would be mutually identified and agreed on by landowner and FWP and subsequently established.

Comments pertaining to the grazing system were also received and here addressed. Funds from Montana FWP's Upland Game Bird Habitat Enhancement Program will be used to cost share with landowner for grazing system fencing and improvements. Legislation regulating the Upland Game Bird Habitat Enhancement Program limits cost share on grazing systems to 50 percent. Another comment questioned why, only, winter grazing is prescribed. The "Deed of Conservation Easement" allows livestock grazing incorporating the principles of rest rotation grazing, which can/does accommodate grazing during other seasons. The "Deed of Conservation Easement" is monitored for compliance annually, and vegetation and effects of grazing system will be scientifically monitored by FWP Plant Ecologist.

Another similar comment questioned why, only, winter wheat was prescribed as a crop. The "Deed of Conservation Easement" does not mandate winter wheat versus another crop, and the

Management Plan also allows for a different species of crop with mutual agreement between Landowner and FWP.

The last comment is also addressed by the "Deed of Conservation Easement", which does prevent the landowner from establishing a residence on the land.