DECISION NOTICE:
Bearmouth Fishing Access Site Donation
Montana Fish, Wildlife and Parks
3201 Spurgin Road
Missoula, MT 59804
(406) 542-5500

DESCRIPTION OF PROPOSED PROJECT
Montana Fish, Wildlife & Parks (FWP) proposes to acquire through donation from Five Valleys Land Trust of Missoula approximately 20 acres of land, adjacent to the Bearmouth Fishing Access Site (FAS) located in Granite County between Drummond and Beavertail Hill State Park on the Upper Clark Fork River. The property for the existing Bearmouth FAS was just acquired in 2005 and has not been developed yet. The proposed acquisition would be added to the Bearmouth FAS enlarging its size to approximately 30 acres.

Five Valleys Land Trust acquired the property through a donation from the previous landowner, Mr. Gene Tripp. The intent of Five Valleys Land Trust in accepting the land donation was to conserve the property and make it available for conveyance to FWP, if FWP receives the necessary approvals to acquire the land. Five Valleys Land Trust is a non-profit organization and is not charging any fees to either party for this service.

The existing FWP Bearmouth FAS is a narrow strip along the old frontage road starting approximately ¼ mile downstream of the Bearmouth Bridge on the right bank only. The Tripp property starts upstream of the bridge to adjoin the FAS on the right bank, and continues approximately 250 feet downstream, covering both sides of the Clark Fork River between FWP's property and Interstate 90. This proposed donation would greatly enhance public access at this location, due to the size and characteristics of the property. Most of the Tripp property is level with low banks, making it ideal for bank and wade angling. The Tripp property also includes land on both sides of the river, whereas the current Bearmouth FAS property only covers the north side of the river. The larger site would offer more angling opportunities and reduce trespassing on private lands, as the FAS would then be bordered by the interstate to the south and a steep cliffside to the north. The larger site would also offer more choices for future development such as a boat ramp or parking facilities.

Montana Fish, Wildlife & Parks is interested in acquiring this land because it would greatly enhance Bearmouth FAS as described above. There are very few designated public FAS's on the Upper Clark Fork River and little opportunity for public access. There are no other FWP FAS's in the 30-mile section between Drummond (river mile 273) and Beavertail Hill State Park (river mile 245). As efforts continue to clean up the historic mining contamination of the Clark Fork and restore the fishery, angler days are on an upward trend. There were 23,666 angler days in the section between the Bitterroot River and the Little Blackfoot River in 2003, making it the 6th most visited in the region and 28th in the state. However, angler days dropped to 11, 772 days in 2005, making it the 9th most visited in the Region and 55th in the State. It is unclear what caused this drop in visitation, but lack of access is a likely factor.

This EA addresses only the acquisition/donation of the 20-acre Tripp property, and does not include any possible improvements that would be made in the future. Benefits of the proposed action include the provision of greater public access to a major river at little cost to FWP. Access to the Bearmouth FAS is very easy and convenient, as users take the Bearmouth exit off of I-90, turn north and then turn west at the old highway. The Tripp property is ideally suited for streambank and

wade fishing and together with the current FWP property would help make the Bearmouth FAS a very nice site for the public.

Alternative A: No Action

If no action is taken, FWP would not accept the donation of the Tripp property for addition to Bearmouth FAS. Five Valleys Land Trust (FVLT) would seek a new owner for the property, perhaps another State Agency or Granite County with the hopes that the parcel would still provide public access and recreation. If that was unsuccessful, FVLT be forced to sell the property to private interests, in which case the opportunity for public access could be lost. If no action is taken, FWP would lose a rare opportunity to acquire riverfront property at very little cost in a location that would further department goals. In addition, future fencing and border signing at Bearmouth FAS would be more extensive to discourage trespass onto the Tripp parcel.

Preferred Alternative B: Proposed Action

In the preferred alternative, FWP would accept the donation of approximately 20 acres of land to be added to Bearmouth FAS on the Upper Clark Fork River. By accepting this land, FWP would increase public access to a major river that currently has little public access at small cost. In addition, the parcel is well-suited for streambank and wade angling and increases the recreational value of Bearmouth FAS as a whole. The existing FWP property provides excellent vehicular access to the site, and the Tripp property would provide excellent walk-in access to the river. The configuration of the two parcels also reduces the amount of border that would be shared by FWP and private landowners, as Interstate 90 and steep topography provide effective boundaries. Less private/FWP borders means less trespassing and litter on private land and therefore less conflict between the private landowner and the public and FWP.

PUBLIC PROCESS AND COMMENT

The EA was sent out and the public comment period began February 20, 2008, and ran through March 24, 2008. Legal notices were published in the *Missoulian*, the *Helena Independent Record* and the *Philipsburg Mail*. There were 18 full copies, 5 electronic versions, and 4 post cards about the EA that were sent to interested parties consisting of neighbors, friends, conservation groups, Montana state legislators, county & state departments or agencies. The Bearmouth FAS Donation EA was posted on the MFWP web site February 20, 2008. A statewide news release was also sent out.

There were six comments received from the public. All six were in favor of FWP accepting the donation of this parcel. Within the comments received, there were a couple of concerns and questions asked:

Since the Upper Clark Fork River is part of the Superfund site and this land donation is within the boundaries, what legal liability will the Department be responsible for if FWP receives this donation? *FWP Response: FWP will address fee title acquisition along the Clark Fork on a case-by-case basis. FVLT had a hazardous material assessment conducted on this proposed Bearmouth FAS. As part of that hazardous material assessment, the contractor Tetra Tech reviewed records from the Environmental Protection Agency and Montana Department of Environmental Quality to identify recognized environmental conditions in connection with the site. The hazardous material assessment concluded that the risk for recognized environmental conditions is low for this site. This conclusion is consistent with FWP's investigation that there are no remediation actions proposed near the site and that this site is not likely to be addressed by the lodged Clark Fork River consent decree. In the unlikely event that a CERCLA enforcement action would be taken against FWP, FWP will limit its liability by following the Bona Fide Prospective Purchaser landowner liability protection.*

How much use is the site receiving from people going to the semi-hot-springs at Nimrod? Since parking is limited along I-90, it seems people will use this site for parking. *FWP Response: This has not been observed as of yet. The likelihood of people hiking/walking from the FAS to the hot springs is low.* What improvements if any will be done to mitigate liability from rocks falling from the steep talus slope above the site. *FWP response: This talus slope area is already in FWP ownership, therefore it's outside the scope of this current proposal.* Would someday like to see an interpretive trail on the site. *FWP response: That is entirely dependent on budgets and staff time.*

Concern was raised regarding noxious weeds, especially new invaders. Also, concern about invertebrate invaders. Suggested the use of educational signs, brochures and boat cleaning as well as careful attention to herbicide application. *FWP Response: We concur.*
Another concern was in regards to the ability for county law enforcement to respond to recreational complaints. Suggest the use of river rangers. *FWP Response: Ability to add river rangers to FWP operations will be entirely up to the legislative process. Whenever a new site is added to FWP programs, every attempt is made to provide good coverage within existing operations.*
Garbage & sanitation concerns were shared. Suggested the use of bear proof dumpsters, and having the site formally developed. *FWP Response: FWP does provide caretaker services on a weekly basis during the summer months. However, dumpsters are not provided at every site. Dumpsters are strategically placed within a river drainage. Caretakers will clean each site as they go through their route and utilize these dumpsters along the way. FWP has found that the public will still litter even when garbage cans or dumpsters are available. In order to stretch operational budgets, we feel this is the best method. This new site will be put on the Region's list of sites to be formally developed, however, it may take years before funding is secured. In the mean time, FWP will provide adequate sanitation facilities when warranted such as porta-potties. FWP will do what we can within our operational budgets to be good stewards of the FAS site.*

DECISION
Based on the analysis in the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement will not be prepared. It is my decision to implement Alternative B, the *Proposed Action* and proceed with FWP acceptance of the land donation. This action also requires the approval of the Montana Fish, Wildlife and Parks Commission and the Montana Board of Land Commissioners, both scheduled in June. By notification of this Decision Notice, the draft EA is hereby made the final EA with the FWP responses in this Decision Notice. The final EA with Decision Notice may be viewed at or obtained from Montana Fish, Wildlife & Parks at the above address. The EA is still available for review at http://fwp.mt.gov/publicnotices/archive_2006,4.aspx.

In accordance with MFWP policy, an appeal may be made by any person who has either commented in writing to the department on the proposed project, or who has registered or commented orally at a public meeting held by the department on the proposed project, or who can provide new evidence that would otherwise change the proposed plan. An appeal must be submitted to the Director of FWP in writing and must be postmarked or received within 30 days of this decision notice. The appeal must describe the basis for the appeal, how the appellant has previously commented to the department or participated in the decision-making process, and how the department can provide relief. The appeal should be mailed to: Director, Fish, Wildlife & Parks, 1420 East 6th Avenue, Helena, MT 59620.

Mack Long 5/16/08

Mack Long **Date**
Regional Supervisor