DECISION NOTICE
For the Proposed Land Acquisition: Marshall Creek Wildlife Management Area

Montana Fish, Wildlife & Parks
Region 2
3201 Spurgin Road, Missoula MT 59804
406-542-5500
August 2010

DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife & Parks (FWP) proposes to purchase 24,170 acres of critical fisheries and wildlife habitat in the upper Clearwater River drainage, northwest of the community of Seeley Lake, and manage it as the Marshall Creek Wildlife Management Area (WMA). The property includes most of the West Fork Clearwater River, Marshall Creek, Deer Creek, and North Fork of Placid Creek drainages, as well as Lake Marshall and a small portion of Uhler Creek.

The land is currently owned by Plum Creek Timber Company (PCTC) but is under contract to be sold to The Nature Conservancy (TNC) and The Trust for Public Land (TPL) as part of the Montana Legacy Project. This Project will ultimately convey 310,000 acres of corporate timberland to conservation buyers, primarily State and federal agencies. FWP identified the property as one of its highest statewide native fisheries and wildlife conservation priorities in the 2005 Montana Comprehensive Fish and Wildlife Conservation Strategy and began applying for federal grants to aid in its purchase in 2008. FWP has since been granted the majority of the funds necessary to purchase the property from the U.S. Fish and Wildlife Service and U.S. Department of Agriculture. These funds, when matched with FWP Habitat Montana Program, FWP Hunting Access Enhancement Funds, and private fundraising, would allow FWP to purchase the property from TNC/TPL for approximately $18.4 million, after they purchase the property from PCTC in fall of 2010.

The proposed Marshall Creek WMA includes approximately 25 miles of native fish-bearing perennial streams in four major tributary drainages (West Fork Clearwater River, Marshall Creek, Deer Creek, and the North Fork of Placid Creek) within the upper Clearwater lakes and river system. The system lies within the 2,290-square-mile Blackfoot Watershed in western Montana, located at the southern terminus of the Northern Continental Divide Ecosystem. The West Fork Clearwater River and Marshall Creek provide key adfluvial bull trout spawning and rearing habitat that is the primary source of bull trout and westslope cutthroat trout recruitment for the upper half of the Clearwater River system. The West Fork is one of the most important

adfluvial bull trout spawning streams in FWP's Region 2. Deer Creek contains a smaller, but important resident and spawning bull trout population. This population contributes to genetic diversity as well as geographic distribution, attributes that are important to persistence and recovery of bull trout. These streams also support numerous stream-resident and migratory westslope cutthroat trout populations with high genetic integrity. Mountain whitefish and many other native fish species occur in lower portions of these tributaries and in the main stem Clearwater River and lake system.

The Marshall Creek WMA property provides habitat for over 160 native species including over 37 identified Montana Species of Concern and is critical habitat for three federally listed Threatened species (bull trout, Canada lynx, and grizzly bear). Additionally, the property includes the most important unprotected Canada lynx habitat in the western U.S. The lands provide high quality habitat for game species including elk, mule deer, white-tailed deer, moose, black bear, mountain lion, mountain grouse, and wolves. The property has been identified as a high priority linkage corridor between the Mission Mountains and Bob Marshall/Scapegoat wildland complexes.

The property also provides thousands of hunter-days annually. The proposed WMA is a key component of one of the most heavily used snowmobile trail systems in the country and is used throughout the year for hiking, camping, horseback riding, and other outdoor public recreation.

The objectives of the Proposed Action were:

- To protect and enhance cold, clean, complex, and connected native salmonid habitat critical to bull trout, westslope cutthroat trout, mountain whitefish, and other aquatic species in the Clearwater River system and greater Blackfoot Watershed;
- To protect and enhance critical habitat for sensitive wildlife species;
- To protect and enhance habitat for a wide variety of game species;
- To preserve terrestrial wildlife habitat and movement corridors between the Mission Mountains and Bob Marshall/Scapegoat wildland complexes for the benefit of game and nongame species;
- To provide managed public access to the property and adjacent State and federal lands for hunting, angling, hiking, camping, snowmobiling and other recreational activities;
- To protect important forest areas that are threatened by conversion to non-forest uses and therefore also protect scenic, cultural, fish, wildlife, area recreation resources and riparian areas.

ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

No Action: FWP would not purchase the Marshall Creek Project Property
Under the No Action Alternative, FWP would not acquire the 24,170-acre property from TNC/TPL. TNC/TPL would then pursue other sale options, likely to a private entity.

FWP purchase of a Conservation Easement

This alternative was originally considered a viable option when FWP submitted applications to the U.S. Fish and Wildlife Service for Native Fish Habitat Conservation Plan and State Wildlife Grant funding. Since then, appraised property values have declined in Montana and other potential purchasers of underlying fee title have withdrawn interest. Because awarded federal grant funds are now sufficient to allow FWP to purchase fee-title to the property, potential purchasers of the underlying fee title have not been identified. FWP fee-ownership of the property would best protect its conservation values, and FWP no longer considers a conservation easement purchase over the property a reasonable option.

PUBLIC REVIEW PROCESS

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision based on this information. FWP released a draft environmental assessment (EA; "Draft Environmental Assessment: Marshall Creek Wildlife Management Area Acquisition") for public review of this proposal on July 30, 2010 and accepted public comment until 5:00 P. M. on August 31, 2010.

Legal notice of the release of the Marshall Creek WMA EA was published in the following newspapers: *Blackfoot Valley Dispatch* (July 29, August 5), *Great Falls Tribune* (July 30, August 8), *Independent Record* (Helena; July 30, August 8), *Missoulian* (July 30, August 8), and *Seeley Swan Pathfinder* (July 29, August 5). FWP issued a state-wide news release regarding this proposal on August 2.

FWP mailed approximately 44 copies of the EA (and approximately 25 email notifications of the EA's availability) to adjacent landowners and interested individuals, groups and agencies. The EA was available for public review on FWP's web site (http://fwp.mt.gov/, "Recent Public Notices") from July 29 through August 31, 2010.

A public hearing to explain the project, answer questions and take public comment was held on August 12 (7:00 p.m. in Seeley Lake at the Seeley Lake Community Center).

SUMMARY OF PUBLIC COMMENTS

Approximately 27 members of the public attended the Seeley Lake public hearing, of which 7 people offered public testimony regarding the project.

FWP received a total of 32 written comments on the Proposal during the comment period. Twenty six of the written comments were from private parties (representing 31 individuals), 6 were from formal interest groups or organizations. Public comment is presented in its entirety in Appendices A and B.

All but one of those who submitted formal comment supported FWP's fee title acquisition of the 24,170-acre Marshall Creek property and its future management as a WMA. One commenter instead supported FWP acquiring a conservation easement on the property, an alternative considered but eliminated from further analysis in the draft EA. Commenters agreed with FWP that the acquisition would protect critical fish and wildlife habitat, ensure important connectivity between other protected lands, and would provide a range of highly valued public recreational opportunity.

Most of the substantive comments on the proposal focused on the future recreation and habitat management of the property. Commenters identified several specific issues of concern that are discussed, below.

Road management and OHV use
The Seeley-Swan ATV Club and its members carefully reviewed the proposal, attended the public hearing, and submitted comment both individually and on behalf of the Club. FWP sincerely appreciates members' review, support, and specific suggestions; we welcome their continued involvement in ongoing planning efforts. The Club and its members asked FWP to consider additional ATV routes and access on the property. Other commenters urged FWP to maintain wheeled motorized use at current levels.

As outlined in the Draft Management Plan (Appendix A of the Draft EA), FWP is committed to maintaining and enhancing a wide range of recreational opportunities on the property (including snowmobile and wheeled OHV use). In the near term, the nearly 40 miles of roads currently open to wheeled motorized travel will remain open and managed as they are now. Any additions to the open-road system (including dedicated ATV trails) would need to be compatible with fish, wildlife, and other recreation values. Although specific decisions about management of wheeled motorized use of the property are beyond the scope of this EA, FWP welcomes suggestions for and discussions of future travel management in the coming months and years.

Operations and maintenance funding
Both the Missoula Board of County Commissioners and several individual commenters asked whether FWP had adequate and perpetual funding to maintain the proposed WMA.

The Habitat Montana statute provides an earmarked, ongoing revenue source for operations and maintenance on FWP lands. Under § 87-1-242, MCA, 20% of FWP's annual Habitat Montana appropriation is earmarked for development and maintenance of wildlife management areas. Each year, half of that amount goes onto the ground and the other half goes into a trust fund account. Interest earnings from the trust account are then spent on operations and maintenance. As of June 30, 2010, the balance in the trust account was approximately $8.4 million dollars. The combined funding available (Trust fund earnings plus money available to spend each year) for operations and maintenance on FWP lands statewide in fiscal year 2010 is approximately $1.4 million.

FWP is also required to establish a maintenance account for property acquisitions (§§ 87-1-209 and 23-1-127 (2), MCA). Funds in this account are used for weed maintenance, fence installation or repair of existing fences, garbage removal, the implementation of safety and health

measures required by law to protect public, erosion control, streambank stabilization, erection of barriers to preserve riparian vegetation and habitat, and planting of native trees, grasses, and shrubs for habitat stabilization. FWP funds will be deposited into this account upon acquisition of the Marshall Creek WMA property.

Finally, per state law § 87-1-201(9), MCA, FWP is required to implement programs that address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction. This statute created a Forest Management Account to fund forest management activities on FWP-owned lands. Revenues from forest management activities would be deposited in this account and would be available for ongoing management activities.

Compliance with Missoula County resolutions and documents
The Missoula Board of County Commissioners requested that FWP agree to comply with County resolutions that apply to the subject lands. FWP will comply with all County planning and implementation resolutions and documents on the Marshall Creek WMA, if acquired, including zoning and subdivision regulations. This comports with FWP's normal practice, and as a partner in the County and community planning process in the Clearwater Watershed we welcome this responsibility.

Continued active forest management
Several commenters encouraged FWP to continue to actively manage and improve forested habitat on the proposed WMA. FWP has both the statutory means and obligation to do so. As FWP outlined in the draft Management Plan, we intend to actively maintain and restore forested upland and riparian habitats should we acquire the property. New authorities (§§ 87-1-209 and 23-1-127 (2), MCA) now allow receipts from forest management activities in excess of costs to be deposited into a Forest Management Account which can then be used to fund other forest management activities on FWP's forested lands.

DECISION

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

This decision has benefited from extensive public review of the proposal and informed comment. We have heard from the Missoula Board of County Commissioners, local and regional citizens, nonprofit user and conservation groups, and other interested parties.

Commenters nearly unanimously support FWP acquisition of the subject property and its management as the Marshall Creek WMA, as proposed. They reaffirmed their interest in conserving the critical fish, wildlife, and recreational resources of this area for present and future

generations. The public has concurred that FWP is the agency to conserve and perpetuate these natural and recreation resources in the public interest.

In consideration of these facts and with this Decision Notice, we adopt the Draft EA as final. We recommend to the Fish, Wildlife and Parks Commission that it approve the proposed Marshall Creek WMA acquisition.

Mack Long
Region 2 Supervisor
Montana Fish, Wildlife & Parks

9/10/10
Date