



# **Montana Fish, Wildlife & Parks**

## **DECISION NOTICE for the Draft Environmental Assessment: Spotted Dog Grazing Lease—Proposed One-year Extension**

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### DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife & Parks (FWP) proposed to extend the grazing lease with Rock Creek Cattle Company (RCCC) on the 37,877-acre Spotted Dog Wildlife Management Area (WMA) to December 31, 2013. Spotted Dog WMA is located northeast of Deer Lodge in Powell County, and is in the northern portion of deer/elk Hunting District (HD) 215. Under the existing lease agreement between FWP and RCCC, the grazing lease was to expire on December 31, 2012. If this proposal is approved the grazing lease with RCCC would be extended for one final year, coincident with FWP's continued efforts in 2013 to explore potential boundary adjustments and complete boundary fencing. At the end of this one-year grazing extension, FWP would implement its Management Plan and the Livestock Grazing Amendments to the Plan contained in the Decision Notice<sup>1</sup> for the purchase of Spotted Dog WMA.

RCCC would pay \$187, 695 to FWP in 2013, as per the established standard grazing rate (which was \$19.40/AUM in 2012). Grazing terms from the 2010 purchase agreement were outlined in Appendix A of the Draft Environmental Assessment, and these terms were proposed to also apply to the 2013 grazing extension. There would be no cattle grazing from December through April, and the grazing season would be "about May 15 to about November 15 (6 months)."

The purpose of the proposed action is to give FWP another year to implement actions--fencing and a possible land exchange on the eastern boundary of the WMA--that would allow for more effective range management while still deriving income from leasing pasture. Portions of the Spotted Dog boundary fencing remain in need of replacement, and in some circumstances relocation, and it is difficult to exclude large numbers of trespass cattle at present.

### ALTERNATIVE TO THE PROPOSED ACTION

No Action: FWP would not extend RCCC's grazing lease for 2013. If no action is undertaken, the grazing lease for RCCC on the WMA would expire at the end of 2012 as dictated in the 2010 purchase agreement. FWP would still be unable to control livestock trespass due to lack of

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<sup>1</sup> FWP. Decision Notice For the Proposed Land Acquisition: Spotted Dog Wildlife Management Area. Aug 2, 2010. [http://fwp.mt.gov/news/publicNotices/decisionNotices/pn\\_0458.html](http://fwp.mt.gov/news/publicNotices/decisionNotices/pn_0458.html) Accessed Nov 1, 2012.

completed fencing and would not derive income from a lease. Despite expiration of the lease with RCCC, the department would not be able to implement a Grazing Management Plan—including rest from grazing--on the WMA.

### PUBLIC REVIEW PROCESS

FWP 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) for public review of this proposal (Spotted Dog Wildlife Management Area Grazing Lease Extension) on November 2, 2012 and accepted public comment until 5:00 P. M. on December 3, 2012.

Legal notice of the proposal and availability of the Draft EA was published in the *Anaconda Leader* (Nov 2, 2012), *Independent Record* (Helena, Nov 2), *Missoulian* (Nov 2 & 9), *Montana Standard* (Butte, Nov 2), and *Silver State Post* (Deer Lodge, Nov 7) newspapers.

FWP mailed approximately 66 copies of the EA (and sent approximately 40 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" and "Submit Public Comments") from November 2 through December 3, 2012. An FWP statewide news release was issued November 2 and posted on FWP's website (<http://fwp.mt.gov/>, "News Releases") the same day.

### SUMMARY OF PUBLIC COMMENT

FWP received 20 total comments representing 18 people (15 were individual comments, one comment represented 2 people, and 1 person submitted comments twice) and 3 groups/agencies (Anaconda Sportsmen's Club, Deer Lodge Valley Conservation District, and Montana Wildlife Federation). Those persons indicating residence included one each from Avon, Elliston, and Missoula, and 2 from Helena.

Of the total 20 people/agencies/groups making comments, 6 commenters supported the proposal for a one-year grazing extension for RCCC livestock, 4 supported the proposal contingent on their recommended changes or compromise, and 11 opposed it. Regardless of their opinion on a one-year extension of grazing, at least 7 of the commenters noted a need for at least partial rest or exclusion of livestock grazing until vegetation, range conditions, and/or riparian areas improved. All comments can be viewed in their entirety in Appendix A.

## RESPONSE TO PUBLIC COMMENT

Below is a summary of comments and FWP responses. For ease of response, similar comments from different parties are grouped together if they express a similar view. (Comment numbers correspond to the numbering of the individual commenters and paragraphs in Appendix A.)

Comment 2: Grazing is forage management. Proper management is absolutely necessary to maintain a healthy ecosystem, reduce fire potential, and to attract wildlife. If you stop grazing the Spotted Dog, you will slowly ruin this ecosystem. . . . Grazing is a good thing when done properly.

Comment 6c: I also believe the long term health and benefit to wildlife can be accomplished if the cattle are a continual part of the management plan on this WMA. There are numerous areas underutilized by cattle with the grasses being rank and less palatable to both domestic stock and elk. . . . The riparian areas . . . are in poor shape from all the abuse over the years. I would like to see money collected from grazing fees put to use protecting these riparian areas. . . . create a dynamic management plan that uses the cattle component to the betterment of all concerned.

Comment 20c: The Deer Lodge Valley Conservation District believes that under proper management, a long-term sustainable level of livestock grazing can be accommodated within the WMA. Montana FWP has demonstrated that this is a viable option in other areas. . . . A long-term grazing management plan would generate a consistent level of revenue that could be applied directly to improvement of the Spotted Dog WMA.

*FWP Response: We agree that grazing can be used as a tool to enhance wildlife habitat on WMAs. As noted, FWP uses grazing as a management tool on other department owned lands. Like any tool the effectiveness of grazing to accomplish our goals would vary depending on its application--in this case: the timing of grazing, stocking rate, and other variables. The decision notice for purchase of the Spotted Dog WMA states that FWP will consider grazing as a tool to the extent that it allows the department to accomplish other goals—chiefly the protection and enhancement of wildlife habitat.*

*At this time grazing fees from Spotted Dog would go to a FWP statewide wildlife operations and maintenance fund from which Region 2 may request funds for work on WMAs. To quote from the July 28, 2010 purchase agreement with RCCC, “Money received from grazing shall be deposited in an appropriate account as per 87-1-601(5)(a)(iii)[, MCA]and shall be used for operations and maintenance on Department lands.”*

Comment 4: FWP's proposed extension of the Spotted Dog grazing lease seems a calm and orderly step along the way to fulfilling its intended purposes for an array of Montana's wild species. I agree with key features of planning the WMAs contributions to the Spotted Dog's elk--and that goes with them--beyond this final year of the subject grazing agreement.

*FWP Response: Thank you for your comment. It is FWP's intent to pursue this “calm and orderly step” during the transition in our management of the WMA.*

Comment 6b: My first comment on this proposal is that these cattle must be moved off the rangeland prior to the beginning of general rifle season. . . . The number of cattle have been less since the first weekend, but with cowboys and dogs frequenting the area moving the animals off it just raises hell with trying to hunt! Your total AUM's would not have to change in order to accomplish this and therefore the revenue would not be diminished. Just end the grazing period on October 15 instead of November 15 and have a greater number of AU's occupy the land for a shorter period of time and still reach your AUM goal.

Comment 8: Spotted Dog opened to the public for hunting my first year of hunting. The few years that I have been out there i do know that the cattle effects the first three weeks of the hunting season. . . . Not only do we have to watch out, drive around, and hike where the cattle are, we have to make sure that they are not in line of fire if we do see a deer or elk. To me the cattle is impacting the recreation use of the property that is there. . . . it will be a relief to see the cattle leave and let the wildlife return to the ranch and surrounding area.

Comment 15: . . . I have also attempted to ride my mountain bike in the area several times and have had a very poor experience each time due solely to the cattle present. . . . I think with a number of road closures and dramatically reduced numbers of cattle, the Spotted Dog WMA could be a great place to hike, bike, fish and hunt.

*FWP Response: We acknowledge that substantial use of the WMA by cattle (we estimate 3,790 trespass AUMs, in addition to up to 9,675 AUMs leased to RCCC) has resulted in a recreational experience that is not what users may expect. Horseback riders, bikers, archers and rifle hunters have complained that the substantial presence of cattle on the WMA is compromising their enjoyment of the property. These conflicts would be reduced in the future as the WMA is rested from grazing, and if future grazing occurs, it would be designed in consideration of reducing conflicts.*

*In response to the above comments, and similar comments that follow, FWP would establish specific on/off grazing dates and shorten the 2013 grazing period to May 15, 2013 through September 30, 2013 (vs. the 2010 and 2011 potential yearly periods of May 1 through November 30, per the 2010 purchase agreement) for the lease of range to RCCC on the WMA. The total leased AUMs would remain 9,675. (Please see "Change to the Proposed Action and Draft EA" section on page 7). Reducing the duration of cattle use on the WMA by removing RCCC cattle from the WMA before general rifle season would reduce cattle vs. hunter conflicts.*

Comment 10a: As I read the EA, you folks have gotten into a pickle. You need more time to fence out the likely trespass grazers and to complete a land exchange with the Forest Service. I wish you well on both of those endeavors. . . . I hope you terminate livestock grazing as soon as possible.

Comment 10d: Based on my view of the huge areas of stomped down streams and springs and the massive areas of lupine, season long grazing is not what Spotted Dog needs now after decades of that treatment. I would request that you finish the fencing as soon as possible and

give the grasslands some rest. It is one of the few public areas that has so much area of high elevation grasslands - a scarce commodity these days!

Comment 11d: The Spotted Dog WMA has seen heavy livestock grazing, first sheep, then cattle for perhaps a century and a half. . . . Areas with water show their history of heavy use by domestic livestock.

Commenter 15: I realize that cattle grazing within the Spotted Dog WMA is a significant source of income for the FWP but I would like to see the practice discontinued to improve the habitat quality as well as the user experience in the area. I have fished Spotted Dog Creek several times and the condition of the riparian area around the stream is very poor. . . .

*FWP Response: We agree that there have been ecological impacts from long-term grazing on Spotted Dog and that the condition of riparian areas is degraded. FWP's proposal to complete fencing, so that we can better control trespass cattle, is a first step to rest the WMA. Resting the WMA from grazing would help accelerate native plant community recovery in the near term. FWP would consider prescribed livestock grazing as a future management tool.*

Comment 11e: There is no place for cattle or sheep on land set aside to be used for wildlife management. . . . Why should the wishes of one entity, namely RCCC, take precedence over the interests of the public? RCCC is now primarily a land development company rather than a cattle company anyhow. They sold the land; it is ours, not theirs, now.

*FWP Response: FWP is working toward managing Spotted Dog for the primary purposes of providing effective wildlife habitat and hunting recreation. In part, this would require final completion of boundary fencing in 2013 and include the possibility of land exchanges with the US Forest Service. Grazing management may be used in the future on Spotted Dog to achieve specific habitat or recreational benefits. The currently proposed action is an interim action until all fence infrastructure and adjustment to ownerships are in place.*

Comment 18b: In the spirit of this good neighbor action we would request FWP to engage the lessee about a reciprocal action on public access on their extensive holding in this area. Currently there is no public access allowed on tens of thousands of acres they own. The lack of hunting opportunity has created a large population of elk which creates damage on neighboring private lands. This is an opportune time to discuss public access and appropriate wildlife management with this landowner.

*FWP Response: FWP recognizes that there is limited public access on RCCC's lands near Garrison and Deer Lodge and that constraints on public access to hunt elk in that area are contributing to an elk population that is over FWP's management objective in HD 212. FWP is working with landowners in the area in an attempt to improve hunting access to those populations. FWP agrees that it is preferable to work with ranches that provide public hunting access. In this circumstance, RCCC was the previous owner of the Spotted Dog property and the proposed action is, in part, a result of the department's purchase of the WMA from RCCC.*

Comment 20b: As a Conservation District, we are supportive of maintaining agricultural uses in the Deer Lodge Valley. It is our feeling that some level of livestock grazing should continue in the future on Spotted Dog WMA. We realize that to achieve necessary restoration and to meet your goals and objectives for the management of the WMA that future livestock grazing may not be at current of historic animal unit months (AUM's).

*FWP Response: FWP recognizes the importance of grazing to the economy and culture of the Deer Lodge Valley and Montana at large, and has committed to consider cattle as a management tool to achieve habitat and recreation goals on the WMA.*

Comment 13b-e, g-i, k: . . . I believe we all can agree this WMA needs for the plants to be rested from domestic livestock grazing, and the riparian areas need to heal. . . .

As I said at the last Commission meeting, I believe a win-win situation can take place in 2013. My recommendations are as follows:

1. Specify the on date of June 1, 2013 at the earliest. This will give the plants a chance to grow before cattle grazing.
2. Specify the off date of Oct. 1, 2013 at the latest. This will address the hunter frustration of having the WMA covered with cattle during hunting season. Also, there can be some fall growth allowing the plants to go into winter in better condition. This off date is compatible with the three USFS adjacent grazing allotments (Off 9/15, 9/30, 10/10). . . .
3. The DNRC lands that are leased from the FWP can have these on-off dates also. It is my understanding that FWP has the authority to do this on these leased DNRC lands.
4. I support the potential boundary adjustments with the USFS as we know this process may take years.
5. The total number of head permitted to RCCC on the WMA should not exceed the 2012 level and be as low as can be agreed on. . . .
6. Finally, ONE YEAR IS ONE YEAR IS ONE YEAR!! I think we all are looking forward for the Spotted Dog WMA to have a long overdue rest and healing. . . . the number one goal is forage for wildlife.

Comment 14a-c: On behalf of the Montana Wildlife Federation, I offer support of the proposed One-Year Extension of the Spotted Dog Grazing Lease with the following qualifications:

1. We cannot support the way the "on" and "off" dates have been described. We recommend that this be changed to specify that the On Date shall not be before June 1, 2013 and the Off Date shall not be later than October 1, 2013. We have found that these dates are close to on and off dates on other Federal Public lands in the area. We also believe that this will share the use of this WMA with archery hunters in a much more equitable way.
2. The extension should not be a precedent for future extensions of this Lease, this is a one-year only extension. This property is to be managed as a WMA and future uses of this area for commercial grazing should only be allowed under an approved Grazing Allotment Management Plan that puts wildlife needs and associated benefits first and foremost.

Comment 18a: These comments are submitted on behalf of the Anaconda Sportsmen's Club. . . . We would prefer no domestic grazing on this property until the native vegetation has recovered and an appropriate long term management plan has been developed and vetted through a public process. However we embrace the process that allows for a transition for the historical private grazing interests and if FWP determines that a good neighbor action is appropriate we would support a one year grazing extension. . . . Further extensions would not be appropriate. . . .

*FWP Response: FWP appreciates these thoughtful responses and suggestions to the proposed one-year extension to the Spotted Dog grazing lease. Conflict with recreationists and hunters, the need for rest from grazing on the WMA, and the need to retain grazing on the WMA, albeit under a management plan, are all themes expressed in public comment regarding this proposal. In light of these comments and their compatibility with our stated management direction for the Spotted Dog, FWP would change the proposal by requiring that RCCC cattle not enter the WMA before May 15, 2013 and will exit on September 30, 2013. The total AUMs will remain at 9,675.*

#### CHANGE TO THE PROPOSED ACTION AND DRAFT EA

In consideration of public input Montana Fish, Wildlife & Parks will change the grazing dates in the Proposed Action in the “Spotted Dog Grazing Lease—Proposed One-year Extension EA,” as follows: “Rock Creek Cattle Company cattle may continue to graze on Spotted Dog Wildlife Management Area in 2013 under the condition that they enter the WMA no earlier than May 15, 2013 and leave the WMA on September 30, 2013.”

#### FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis in the EA and the public comment, I have selected the “Proposed Action” alternative as changed above. FWP has reviewed the EA and applicable laws, regulations, and policies and has determined that this action will not have significant effect on the natural or human environment. Therefore, I conclude that the EA is the appropriate level of analysis, and an Environmental Impact Statement is not necessary.

#### DECISION

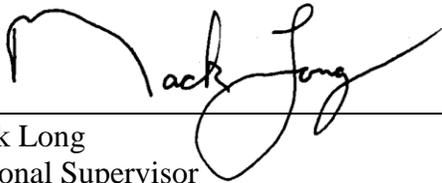
With a change to the proposed action—a limitation of RCCC grazing to the period from May 15 to September 30, 2013—and based on the analysis in the Draft EA, along with the public comments and the applicable laws, regulations and policies, it is my decision to proceed with the proposed action to extend RCCC grazing on the Spotted Dog WMA for one year.

I have determined that the decision to proceed with the proposed action will not have a significant negative effect on the natural or human environment; therefore, an Environmental Impact Statement will not be prepared. By this notification, the Draft EA with the change noted

in this Decision Notice is hereby made the final EA. The Draft EA with Decision Notice may be viewed at or obtained from Montana Fish, Wildlife & Parks at the address on page 1. The EA is also available for review on FWP's web site (<http://fwp.mt.gov/>) under Public Notices (enter "Spotted Dog" in Search Public Notices).

CONCLUSION

By this notification, the draft EA and this Decision Notice--with the grazing period grazing period change outlined above--are hereby made the final EA. The finding of selection for the Proposed Action alternative noted above is the product of this Decision Notice.



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Mack Long  
Regional Supervisor

12/17/12  
Date

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