Montana Fish, Wildlife & Parks

Region 4
4600 Giant Springs Road
Great Falls MT 59405-0901

Environmental Assessment Decision Notice:
Proposed Acquisition and Development of the Upper Big Springs Creek Fishing Access Site

October 2, 2013

Proposal
Montana Fish, Wildlife and Parks (FWP) proposes to acquire approximately 3-acres of land in Fergus County, Montana along the upper portion of Big Spring Creek for the purpose of establishing a fishing access site (FAS). The proposed FAS is located across the highway from the lower unit of the Big Spring Creek Hatchery. This document serves as the Decision Notice for the Environmental Assessment (EA) addresses the acquisition and subsequent development of the property.

Montana Environmental Policy Act Process (MEPA) and Public Involvement
On June 18, 2013, FWP released a draft EA for the Upper Big Spring Creek Fishing Access Site Parcel Proposed Acquisition and Development. The EA evaluated the potential impacts of the following alternatives:

Alternative A: No Action
If no action were taken, FWP would lose the opportunity to acquire this property and develop safe, public access to this reach of Big Spring Creek. The public would continue to access Big Spring Creek from the steep bank at the Big Spring Trout Hatchery bridge crossing and vehicles would continue to park along Fish Hatchery Road creating a potential public safety hazard. Opportunities for fishing and associated outdoor recreational activities would continue to be limited in this area.

Preferred Alternative B: Proposed Action
FWP proposes to acquire two parcels totaling approximately 3-acres in fee title along Big Spring Creek in Fergus County, Montana for the purpose of providing public access to Big Spring Creek and establishing a fishing access site (FAS). In addition, FWP proposes to develop approximately .5 acres of the approximately 3-acres to include a

parking area, a concrete vault latrine, fencing, picnic tables, and informational and directional signs.

Summary of Public Comment
FWP received comments from eight individuals and one local conservation group. Three individuals supported the proposed action. The others opposed the proposed action. Supporters acknowledged the importance of public access sites on Big Springs Creek in order for anglers to safely fish this creek and avoid trespassing on private property. Opposition to this proposal included concern that purchase of this site would preclude purchase of other critical parcels further downstream on Big Springs Creek and desire to use funding for other stream improvement projects on Big Springs . There was concern that this site is unnecessary for access to the creek and could lead to conflicts with landowners. FWP had a subsequent meeting with the conservation group and individuals that opposed the project and contacted adjacent landowners to discuss concerns and provide additional information regarding the project. Comments and the department's responses are as follows:

1. **Comment:** ***The expenditure of funds will not provide additional public fishing access:***

   Response: The current condition does not provide safe or legal angler parking. In addition anglers must negotiate a rip rapped stream bank to access the creek which does not meet FWP's criteria for safe or prudent access.

2. ***Comment:*** ***None of the adjacent landowners are in support of this acquisition. Landowners who now allow fishing with permission would start denying access.***

   Response: FWP has been in contact with the immediate adjacent landowner, who has expressed support for FWP's proposal and has additionally agreed to sell FWP a small portion of property that will provide additional creek frontage for anglers. FWP has contacted other landowners in the area who have also expressed support of the proposed FAS acquisition and development.

3. ***Comment:*** ***Attracting additional angler pressure to spawning fish may result in a decline of productivity especially if the no retention of fish above state highway 191 bridge regulation is rescinded.***

   Response: A repeal of the catch and release regulation was proposed to the Fish and Wildlife Commission, but was rejected. The catch-and-release regulation will remain in effect.

4. ***Comment:*** ***We do not see an adverse risk to angler opportunity or stream habitat if this property is not purchased by FWP.***

Response: Angler opportunity would be increased by the acquisitions, since Big Spring Creek is primarily a wade-fishery, and opportunity is closely tied to the number of access points. There is no certainty that angling on the creek via permission on private land will be allowed at current levels into the future. Therefore, the only guaranteed future public angling access there will be publicly owned sites, potentially including those currently proposed for acquisition.

There are no stream habitat issues that will be immediately addressed as a result of this purchase, although the property does have current—bearing and sloughing banks that currently provide good trout habitat. If these become unstable or in need of work in the future, FWP will use fish-friendly habitat protection techniques, something that might not be expected from all landowners.

5. ***Comment: The cost per acre of this acquisition ($50,000 per acre) seems excessive and is greater than the benefits being received. We support acquisitions but not at this cost.***

Response: FWP contracted with an independent appraiser in the area to determine the Spark's property value. The landowner was offered the appraised value, no more – no less. The adjacent property evaluation was then derived from the original appraisal on a per acre basis.

6. ***Comment: We would like to know the restrictions on use of the Monsanto settlement fund money and we highly recommend that these funds be used towards the acquisition of the Bank of the Rockies (BOR) property or applied to the Machler stream restoration project.***

Response: There are no specific restrictions on use of the Monsanto settlement funds other than the PCB cleanup efforts are ranked first in the order of priority for use of the funds. This includes the long term efforts of stream monitoring that will go on for years to come. FWP has evaluated the use of Monsanto funds for the BOR property as well as for the Machler stream restoration project and may use remaining funding (if there is any), after completion of the PCB cleanup, to pay for at least a portion of each of these projects. Currently the Fish and Wildlife Conservation Fund has approved a grant for up to $60,000 towards acquisition of the BOR property. FWP is committed to funding the balance of the costs either through its FAS acquisition account, the Monsanto settlement funding or a combination of all three. FWP is committed to all of these projects and as well as acquisition of the upper Big Spring Creek property and we can assure you this acquisition would not negatively impact progress on either the purchase of the BOR property or the Machler stream restoration project. FWP already has a Purchase Agreement on the BOR as well as on the upper Big Spring Creek parcels. Each project is evaluated on its own merit and funded accordingly.

7. ***Comment:*** ***Are there water rights included with this property? If so, what is their value?***

   Response: Yes, the water rights are included with this property. The water rights are non-consumptive so the value would be difficult to assess. Outside of rearing fish for consumption, the water use could potentially be converted to hydropower generation. A detailed cost benefit analysis would have to be undertaken to determine what value the water rights would have in this situation and almost any other potential business venture. See attached memo regarding the water rights from FWP's water rights specialist.

8. **Comment:** ***In places, especially below the lower boundary of this property, it is difficult to wade and I suspect many anglers at this point will climb out of the stream and trespass onto private land to continue fishing downstream.***

   Response: Enforcement is an integrated component of the administration and operations of the fishing access site program. Montana Fish, Wildlife & Parks is mandated by Montana laws to protect, perpetuate, enhance, and regulate the wise use of the state's natural and cultural resources for the benefit of the general public. This would include being responsive to the landowner complaints and to investigate trespass for unlawful use.

9. **Comment:** ***Providing another fishing access site at this location may only provide another secluded party spot which law enforcement does not need.***

   Response: The proposed parking area is located at the top of the site where it is visible from the highway. The purpose for this particular parking design is to discourage people from using the FAS as a party site. This is also only a day use site and after dark activities are not allowed. Again, if necessary, FWP will use Enforcement personnel to effect its regulations.

10. **Comment:** ***I wish to withdraw all objections to the proposed purchase of the Sparks property below the lower State Hatchery site due to additional information received. … I am in total agreement that the removal of any potential of re-opening the private hatchery is worthwhile. …Although the need for additional access at the site is questionable, a small parking lot capable of holding a few vehicles hopefully will not appreciably change present use, and as I now feel that the purchase is justified for good reason other than access, I agree that modest parking facilities are in order and should be included.***

    Response: Your comment of support is duly noted.

11. **Comment:** ***As a fly fisherman who loves Big Spring Creek, I can fully support the Upper Spring Creek FAS this part is not easy for one to access, difficult to fish from, or travel the banks. The new site would help ease the***

problem, and be a real plus to the improvements planned for the Fish Hatchery land.

Response: Your comment of support is duly noted.

12. **Comment:** ***This acquisition would be a welcomed addition to the state of Montana, giving additional safe access and parking, along this spring creek.***

Response: Your comment of support is duly noted.

13. **Comment:** ***The main thing is that the opportunity to get any amount of spring creek frontage (on both sides) into public ownership is an opportunity that does not come along frequently and that it outweighs the potential negatives.***

Response: Your comment of support is duly noted.

Decision

Based on the Environmental Assessment, public comment, and FWP evaluation, it is my decision to proceed with Alternative B, the proposed action of acquiring approximately 3-acres of land, and developing the site as described in the EA, for purposes of establishing a fishing access site along upper Big Springs Creek.

I find there to be no significant impacts on the human and physical environments associated with this project. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required.

Gary Bertellotti
FWP Region Four Supervisor