MONTANA FISH, WILDLIFE & PARKS

Region 1
490 N. Meridian Road
Kalispell, MT 59901

DECISION NOTICE
and
Finding of No Significant Impact
for the
THOMPSON-FISHER CONSERVATION EASEMENT AMENDMENT

March 18, 2019

Description of the Proposed Project
Montana Fish, Wildlife & Parks (FWP) proposes to remove 1.63 acres of developed land from the Thompson-Fisher CE and replace it with 5 acres of undeveloped, upland and riparian habitat along the Little Thompson River (Figures 1 and 2). This land exchange and accompanying CE amendment would resolve an encroachment issue on the CE land. The developed land on the CE involves seven different parcels of State School Trust Land managed by the Montana Department of Natural Resources and Conservation (DNRC). Each parcel is adjacent to the conservation easement and lies within the Thompson River valley. The DNRC parcels are leased for cabin sites and they include various structures or other improvements that encroach onto the CE. Weyerhaeuser has agreed to remove the 1.63 acres of developed land from the easement and add 5 acres of undeveloped land which is adjacent to existing CE land, for a net gain to the easement property of 3.37 acres. The 5-acre parcel to be added to the CE is currently managed by Weyerhaeuser as forestland and this proposal will ensure that it will be managed in the same manner in the future. No immediate changes in land use would occur because of this amendment either on the land removed from or added to the CE. No money would be exchanged to complete the proposed amendment.

FWP was aware of structures associated with two of these cabin leases by DNRC that encroached on the land while the CE was being negotiated in 1999. The conservation easement documented and allowed these two encroached areas on the conservation easement lands. In 2009, following a new land survey, an additional five leases were discovered to be encroaching on the CE area. All the encroachment from the DNRC owned parcels occurred based on an old land survey that incorrectly showed the timber company land to be DNRC land. Weyerhaeuser, DNRC, and FWP have been working together for the last decade to come to an equitable solution to this land survey mistake. Weyerhaeuser did not want to accept the liability associated with having these improvements on their land, DNRC and the cabin lessees did not want to solely bear the brunt of this mistake by having to remove the improvements and structures, and FWP could not ignore the violation of the non-development conservation easement. Many solutions to the problem were considered, but the only option that worked for all parties involved removing the developed parcels from the CE so that Weyerhaeuser and DNRC can resolve the encroachment issue without being constrained by FWP's CE. FWP could not give up the conservation easement values on the encroached land without compensation in-kind. The proposed addition of the 5 acres will provide the needed in-kind compensation.

Montana Environmental Policy Act (MEPA) Process and Public Involvement
FWP released a draft environmental assessment (EA) for public review on February 12, 2019, and asked for public comment through March 15, 2019. FWP ran legal ads describing the proposed Project, the availability of the draft EA, and the public hearing information in three local newspapers. The draft EA was posted on FWP's official website and was also available at the Region One headquarters in Kalispell and online for people with internet access or through internet service at public libraries.

The EA evaluated the potential impacts of the following alternatives:

1. **Alternative A: No Action** – Under the No Action alternative, the developed land would remain in the CE and no additional acreage would become part of the easement area.

2. **Alternative B: Proposed Action** – Under the Proposed Action alternative, the Thompson Fisher CE would be amended to remove 1.63 acres of developed land and replace it with 5 acres of undeveloped, riparian and upland habitat along the Little Thompson River.

Summary of Public Comment
FWP received 4 public comments on this proposed conservation easement amendment. Only one issue was raised which was that the cabin site map did not provide enough detail. There should be a map of each cabin site showing the problem and the fix.

> **FWP Response**: *FWP has included detailed maps located in Appendix A that illustrate the encroachment areas on each property.*

FWP Recommended Alternative and Final Decision Recommendation
In reviewing all the public comment and other relevant information, and evaluating the environmental effects, I recommend that the Fish and Wildlife Commission approve the amendment of the Thompson-Fisher Conservation Easement as proposed in Alternative B, the Proposed Action.

Through the public review process described above, the public did not identify any significant issues. FWP found no significant impacts on the human or physical environments associated with this proposal; therefore, the EA is the appropriate level of analysis and an environmental impact statement is not required.

Noting and including the responses to public comments, the draft EA will become the final EA and together with this decision notice will serve as the final documents for this proposal.

Jim Williams
Regional Supervisor

March 18, 2019
Date