Environmental Assessment Decision Notice

Somers Beach Acquisition

October 19, 2020

Description of Proposed Project

Montana Fish, Wildlife & Parks (FWP) proposes to purchase approximately 106 acres of land along the north shore of Flathead Lake for the creation of a new state park, pending final appraisal, acquisition funding approval, and approval by the Parks and Recreation Board and the Land Board. The proposed acquisition is on the eastern edge of the town of Somers and the current owners have allowed the community as well as the general public to access the property for decades. FWP ownership would provide the public with highly desired recreational opportunities in the area and guarantee historical public access in perpetuity.

This project only addresses acquisition of the site and does not consider site regulations or the type or level of development of the Park should FWP acquire the property. A second environmental assessment (EA) will be developed in the future that examines different development scenarios. That proposal would follow additional analysis of the site, discussions with the community and other stakeholders, and budgetary review.

Montana Environmental Policy Act (MEPA) Process and Public Involvement

FWP released a draft environmental assessment (EA) for a 30-day public review period on August 12, 2020, with comment closing September 11, 2020. The EA was advertised through media releases and legal notices in the Daily Inter Lake, Helena Independent Record, the Lake County Leader and on the FWP website and social media (Facebook & Twitter). Copies of the EA were available from the Kalispell FWP office, on the FWP web site, and at the Montana State Library and the Flathead County libraries.

The EA evaluated the potential impacts of the following alternatives:

1. **Alternative A: No Action**
   If no action is taken, FWP would not purchase the property for inclusion in the state park system. The property would remain in private ownership and the property would likely be sold to another buyer and potentially developed. It is unclear if public access would be allowed in the future, but it is unlikely if the property is sold to a private buyer.

2. **Alternative B: Proposed Action**
FWP would acquire 106 acres of property along Flathead Lake for inclusion in the state park system. The property would remain undeveloped until further analysis of the site and additional discussions with the community occur. Following that, a second EA would be released, and another public commenting process would begin.

Summary of Public Comment:

FWP received 135 emails and letters on the proposed project, and FWP staff reviewed the letters to identify comments. A comment was defined as a specific issue or impact. In many cases, multiple people listed the same or similar comments; these comments are summarized and listed once, and one response is provided.

The following is a synopsis of public input received during the comment period and FWP's response to those comments organized by subject matter.

I. Suitability/Desirability of the Property for use as a State Park

Comment A: *The birds need a safe place, away from people and noise. Flathead Lake is so special, leave it for generations to see. Not every place needs to be full of people and all that comes with them.*

FWP Response A: If FWP does not acquire the property, it is unknown what would happen to the site in the future, but it is unlikely that it would remain as it is now—privately owned but undeveloped and open to the public. The current owners want to sell the property and would like to sell it to a conservation-minded buyer like FWP, but if that effort is unsuccessful they may sell to a private buyer, who would likely curtail all public access to the site and may also develop the property. The proposed action is the result of 10 years of discussion among the owners, partner agencies, stakeholder groups, and members of the community and was supported as the best option to preserve open space, wildlife habitat, and public access.

Comment B: *The area is not suited to year-round use as a State Park. The spring beach season, when the site is most popular, only lasts for a couple of months. When the lake is at full pool (all summer long) there is no beach at all—no sand, no pebbles, just a grassy access to a very shallow lake. It doesn't seem like a good use of state resources to develop an area that would only be used two months out of the year.*

FWP Response B: Based on community feedback and first-hand observations, the area is used year-round for a wide variety of activities, including birdwatching, cross-country skiing, walking, kayaking, paddle boarding, etc. even when the lake is at full pool. While you are correct that the busiest time is undoubtedly in the spring, we believe that the uniqueness of the large beach area combined with the other recreational opportunities available year-round justifies its use as a state park.

Comment C: *There are already too many people recreating on and around Flathead Lake—we are loving it to death.*

FWP Response C: Recreational use of sites and boat traffic overcrowding is subjective as it pertains to social acceptance. In a 2008 survey of water-based parks in Region 1, 60.9% of respondents felt that the number of boaters utilizing the survey sites was acceptable, and 24.1% said it was very acceptable. FWP contends that recreation levels on public waterways should not be managed by public exclusion, but through regulations and planning.

Comment D: *The summer of 2020 has demonstrated the results of having too many people impacting our natural areas.*

FWP Response D: The summer of 2020 showed record-high visitation across most state parks and FASs across the state. Those high levels of use were challenging to manage but also demonstrated again that people need the natural world for their mental and physical health more than ever. FWP is committed to providing diverse recreational opportunities and services and acquiring this property for use as a state park helps to fulfill that mission.

Comment E: *I think the Somers beach shouldn't be a state park because there would be too many people. It is so much fun to run around there, but with so many people you probably couldn't.*

FWP Response E: Even during the busiest time of the year in the spring, the size of the park should allow plenty of breathing and running room.

Comment F: *I am concerned that turning the Sliter property into a state park would affect hunting on the neighboring WPA.*

FWP Response F: We do not anticipate any new restrictions on hunting on the WPA due to the creation of the state park but that is something we will have to continue to asses as we consider development and use patterns.

Comment G: *Our family used to stop at the little beach next to the Somers FAS boat launch but don't anymore because we have become totally disgusted with the public garbage dump that the beach has become. There are posted rules at the site, but no one pays any attention. Apparently, the public cannot police ourselves anymore. Perhaps a new recreational site can be maintained and patrolled so that it can be enjoyed. There needs to be ample parking, restrooms, and garbage cans for the public's use.*

FWP Response G: Many of Montana's Fishing Access Sites are busy and experience heavy use during the summer. FASs and other recreational sites across the state experienced record-high use in the summer of 2020 and FAS staff worked very hard to serve the public and take care of the properties, often under extremely challenging conditions. FWP does not agree that FASs and other FWP properties are not well managed. If this property is acquired, FWP would immediately begin to actively manage the park and have routine staff presence, which should reduce illegal and disrespectful activities on the site. At first, staff will likely not be on-site full time as the site currently lacks any administrative facilities, but those will be added during the next phase, and a more permanent staff presence will be established. FWP continually evaluates

use patterns and other data at state parks, FASs, and other FWP properties and adjusts staff presence and site regulations accordingly.

Comment H: *This will not alleviate the overcrowding elsewhere; it will only bring more.*

FWP Response H: While the acquisition of the property will likely bring in some completely new users, the bulk of the visitors are expected to be locals who have been accessing the site for years already, and tourists looking for other options to access Flathead Lake. While the drop in pressure at other sites may be small, it will still be beneficial and would improve the recreational opportunities and experiences of the public throughout the region.

Comment I: *Two parks (Somers FAS and Somers Beach) is too much.*

FWP Response I: Following the Statewide Fisheries Management Program and Guide recommendations, FWP continues to pursue opportunities to increase access on popular water bodies such as Flathead Lake, where user numbers are exceeding the capacity of existing sites. FWP is committed to providing recreational opportunities and public access to publicly owned areas and providing stewardship of those areas. Flathead Lake belongs to the people of Montana and we believe public acquisition of the Sliter property contributes to the quality of life for present and future generations.

Comment J: *This proposed State Park site is in a flood plain, on monitored EPA test well acreage, with minimum disturbance to soils allowed. If this purchase takes place, I highly suggest it be for day-use only with minimum development.*

FWP Response J: FWP has worked closely with the EPA and DEQ throughout the planning for this project and would continue to do so if the property is acquired. No development would occur without consultation with those agencies. All parties are comfortable with the acquisition and use of the property for a state park.

Comment K: *People may think the rainbow sheen seen at times on the sand is oil pollution left over from the old tie plant. This isn't true. The sheen is from decomposing iron in the sand particles and is a totally natural, non-harmful process.*

FWP Response K: EPA and FWP's independently hired contractor have confirmed that the sheen documented on Somers Beach in 2017 was biological in nature and did not pose a risk to human health.

Comment L: *All three tracts have a permanent underground floating layer of creosote that flows north in the spring as the level of the lake rises and flows south in the fall as the lake level lowers.*

FWP Response L: FWP, DEQ, and EPA are aware of the existing groundwater contamination plume emanating from BNSF's property that extends under a portion of the Sliter property. DEQ and EPA have been monitoring this plume for decades and will continue to do so regardless of ownership of the overlying property. An independent third party produces annual groundwater monitoring reports which charts the chemical make-up and movement (if any) of the plume. No further remedial action is anticipated at this time. Should that change, FWP will work with EPA

and DEQ to ensure any future development within the groundwater control area follows recommended building protocols. Unless disturbed, the groundwater plume does not pose an active risk to human health and DEQ has issued a comfort letter to that effect (see Appendix A).

Comment M: *A small creek that the locals called 'Creo Creek' flowed from old vats towards the lake.*

FWP Response M: FWP is aware that residue from the tie treatment facility was washed towards the lake and was concentrated in what is today referred to as the 'Swamp Pond'. The Swamp Pond sits on BNSF property and is fenced off to the public.

Comment N: *We have learned that the area just off Somers Rd where we have been used to parking at when we accessed the beach is going to be fenced off. The only other available area to park at is the hay field south of Somers Rd before it does a 90 degree turn to the north.*

FWP Response N: BNSF has chosen to fence off the tract adjacent to Somers Rd that had been historically used as an informal parking lot by the public. This EA does not address development but there are several options for putting in adequate parking. All future development, including parking lot sizes and location, will be the subject of a subsequent planning and public participation process. FWP will also continue to work with BNSF on possible partnerships in the future.

Comment O: *On the east side of the Somers Road, I recall that six residences used to be located there. Due to the creosote under these homes, BN Railroad purchased the homes and lots they were on, had the homes demolished, and the debris disposed of. Currently in the area south of those six homes, a series of wells have been drilled down to this floating layer of creosote. In the summer, these wells are being pumped in an effort to reduce this floating layer of creo. How would this affect the park?*

FWP Response O: There are a series of monitoring wells on BNSF's land and on the Sliter property. These wells are used to monitor the groundwater contamination plume that sits underneath BNSF's and Sliter's property. Some wells are checked annually, while others are monitored biennially. There are no active efforts to remove contaminated groundwater on the Sliter property nor plans to do so.

Comment P: *On the east side of this road is an area where a former slaughterhouse was located. Creo sludge from the tie plant was dumped there in the 1950's and burned. The black smoke was visible for miles. This burn area is presently covered with gravel and is therefore not visible. This graveled-over area could extend onto the Sliter land, yet the EPA has not officially issued an acknowledgement of the existence of this creo sludge burn area. I suggest you make a formal request to Mr. Roger Hoogerheide requesting him to inform EPA officials of the existence of the creo sludge burn area and have EPA start its removal.*

FWP Response P: FWP is working with EPA and DEQ (including Mr. Hoogerheide) to ensure the Sliter Property is safe for public access. FWP is aware that byproducts from BNSF's former tie treatment facility have caused substantial groundwater contamination. FWP has inquired with EPA on the existence of the area identified in this comment. EPA represented that it attempted

to identify the area cited, but that community members were unable to narrow down its location. If the area is identified with greater specificity, EPA would investigate further.

Comment Q: *A few years ago, when the lake was very low, a floating layer of 'creo' surfaced, which required EPA action to remove it. That could cause a lot of the beach to be fenced off in the future.*

FWP Response Q: We assume you are referring to the sheen documented on Somers Beach in 2017. EPA and FWP's independently hired contractor have confirmed that the sheen was biological in nature and not a byproduct of the contamination from the former tie treatment plan. EPA confirmed that the sheen did not pose a reasonable risk to human health. If additional creosote contamination is found in the future, EPA, FWP, and BNSF will work to ensure public safety through additional remedial measures.

Comment R: *Only the top half of the Sliter property will provide safe and easy access to the shoreline. The bottom half of the lakeshore area contains a rectangular tract that the EPA controls. It was in this tract where the above-mentioned floating 'creo' layer surfaced, was discovered, and removed. This area is to be fenced off, thus preventing public access.*

FWP Response R: DEQ and EPA have confirmed that Somers Beach and the Sliter property are suitable and safe for public recreation and that contamination from BNSF's tie treatment facility does not constitute a substantial risk to human health. BNSF has chosen to fence off some of its property to protect environmental remediation efforts and keep the public away from the Swamp Pond.

The following is a summary of common themes supporting the acquisition of the Sliter property for use as a state park:

- *The location of the parcel, and the seasonally changing beach characteristics offer the potential for a truly unique experience year-round.*
- *I appreciate our existing state parks, and how they enhance the quality of life in Montana. I believe that creating more public parks would be positive for our great state.*
- *I've always thought what a shame it that was so much of our beautiful lake had such a limited amount of public access. Lots of folks don't have the benefit of having a boat to enjoy the lake. I'm older, and have enjoyed Montana's public lands all my life, but we need to do this for our kids and grandchildren, and future generations.*
- *We will have few, if any opportunities to secure more land for the public in the future. I would encourage you to embrace this rare opportunity.*
- *Tourism is a leading economic driver for Montana in general and northwest Montana specifically. Visitors are attracted to our beautiful landscapes and look for improved, easy-to-access recreational amenities such as state parks, improved trails, and safe water access.*
- *Adding the area to the state park portfolio provides for proper management to reduce noise, trash, sanitation issues and misuse.*
- *Somers Beach would be a great recreational addition. The sandy bottom is ideal for swimming and the shallow depth would allow for non-motorized boating while discouraging motorized use, which improves the safety of the swimmers and non-motorized boaters.*

- *Flathead Lake is a jewel and should be protected and enjoyed by all of us, not just millionaires that can afford property on it.*
- *This property would tie in nicely with the beginning of the Great Historic Bike Trail and add so much appeal to the town of Somers.*
- *As a 40-year resident of the Flathead Valley I have seen the population grow while the number of recreation sites have remained largely unchanged. Current sites see high use, and little can be done to address the high pressure except to expand or acquire new properties.*
- *This property is unique from other Flathead Lake State Parks in that there is so much beach access. Most of the Flathead Lake State Parks are rocky and steep, so having additional beach space for people to enjoy and spread out would greatly enhance the visitor experience to Flathead Lake.*
- *We need more access to the lake for ice fishing and the property would provide that.*
- *This proposal is a win-win for the local community, tourists, and a vulnerable ecosystem that needs permanent protection.*
- *We need more public access along Flathead Lake—this need to be a priority of communities around the lake and state.*
- *This proposal would conserve open space for fish and wildlife and improve opportunities for public access.*
- *Adding this park would relieve congestion at other state parks and recreational areas.*
- *More recreational opportunities and public access is needed to improve the mental and physical health of Montana residents, especially in the age of COVID-19.*
- *I am excited about the prospect of having a new state park but am concerned about impacts to the neighbors (I am not one). This summer of record-high visitation at parks and other recreation areas has shown us the future and we need to proceed thoughtfully.*
- *I was lucky enough to have grown up swimming and playing on Sandy Beach (as we called it) and would like other families and generations to be able to make the same wonderful memories as we did.*

II. Impacts to Neighbors and the Community from the Proposed Action

Comment A: *The high number of people that park along Burns Road and in the neighborhood to the west of the Sliter Property are already an annoyance and disturbance to the people who live there. How does FWP intend to address this?*

FWP Response A: Providing adequate visitor parking will be a priority during the site development phase. If the property is acquired, FWP will immediately begin to asses parking needs during peak use periods. FWP will use that data to develop various parking options that balance public demand with site conditions, wildlife protections, and impacts to neighbors. The public will have several opportunities for participation and comment during this phase.

Comment B: *The high number of people parking along Somers Road (particularly in the spring) already is a safety hazard and this will only get worse if the property becomes a state park.*

FWP Response B: In the recent past the public has utilized a graveled area located on BNSF property as a de facto parking lot, and parking often overflowed onto Somers Rd, leading to unsafe conditions. By developing adequate on-site parking and working with neighbors and the

community to address parking issues, FWP believes that the acquisition and development of the site can vastly improve the current parking situation on Somers and Burns Roads and improve traffic flow and safety.

Comment C: *People currently speed down Burns Road all the time, which is very dangerous as lots of kids are on it with their bikes, etc. If this property becomes a state park the amount of traffic and people speeding will only get worse.*

FWP Response C: There is no evidence to support this claim, and in fact proper park approach signage and traffic controls may improve traffic safety from the current situation. Through a subsequent public process and in consultation with Flathead County and Montana Department of Transportation, FWP will develop ingress/egress points to the site, which will help safely direct traffic. FWP will also be a strong advocate and partner in the development of bicycle and pedestrian routes should the community choose to pursue those improvements.

Comment D: *There should be a traffic study done before the project goes any further.*

FWP Response D: Site design would take into consideration existing traffic loads and patterns.

Comment E: Careless drivers have become an increasing problem on Somers Rd. and a new park would only make that worse.

FWP Response E: If the project proceeds, FWP would consult with the Montana Department of Transportation to consider options to improve safety on Somers Rd.

Comment F: *It's not fair for the people in the neighborhood to have a state park thrust upon them literally in their back yard. The garbage and dog feces are a constant irritation as it is, and the problem will only get worse.*

FWP Response F: The problems described above are largely due to the fact that the Somers Beach area is currently not formally managed. If FWP does acquire the property, usage rules will be enforced, and the area will be actively maintained. FWP anticipates that issues with garbage and dog feces will improve substantially under park management.

Comment G: *The creation of a new state park will cause property values in the neighborhood to go down.*

FWP Response G: Studies exist on the impact of parks and open space on the value of nearby property. Some studies have documented an increase in nearby property values, while others have shown a neutral or negative impact. A review of literature regarding this topic is inconclusive due to the wide array of variables affecting housing and property values. Overall, property values on Flathead Lake and lakeshore communities remain healthy and have continued to increase in recent years.

Comment H: *Noise from the Sliter property travels easily to houses on the hill to the west. In the past 7-8 years, as use of the property has increased, those who live on the hill are subject to interminable noise from the property, including motors, car alarms, dogs barking, babies crying, people yelling, even normal conversations can carry to our homes. If this property is made into a*

state park, please create a wide buffer strip between the park and the homes to the west to mitigate the noise issue.

FWP Response H: Active management of the site, as would occur under FWP ownership, would reduce much of the nuisance noise that currently occurs, such as from off-road vehicles, late-night parties, uncontrolled dogs, etc., but some of the noise would continue. FWP is committed to be a good neighbor and part of that is reducing noise as much as possible. FWP will look at a wide variety of mitigation options as it considers hours of use, type and level of development, vegetative buffers, etc. in order to reduce site noise. We encourage you to remain involved during the development planning phase if the property is acquired. Also, If the property is instead sold to a private party, the property could be developed for residential or commercial uses which would also affect noise levels.

FWP is subject to **MCA 23-1-126**, the good neighbor policy (recreational lands), and will adhere to the law, which is as follows:

(1) The good neighbor policy of public land use, as applied to public recreational lands, seeks a goal of no impact upon adjoining private and public lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy.
(2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to require the department of fish, wildlife, and parks to place maintenance as a priority over additional development at all state parks and fishing access sites.

Comment I: *Somers Beach truly is an amazing space in the spring, and I understand people/families wanting to use it. Unfortunately, because no one has been enforcing private property rights trespassing has become rampant. One area that is especially problematic is the county access at the end of Breezy Point. People often cross three private properties there in order to get to the beach more easily. Some people believe they are not trespassing due to confusion over high water/low water rights and some are simply disrespectful of area homeowners.*

FWP Response I: We believe that the establishment of a formal public access point will substantially reduce incidents of trespass, as people will have a clear way to access the beach. If trespass continues, FWP will work with the community on ideas to further improve the issue.

Comment J: *Fires are a constant threat and could wipe our quaint town out in a flash. Our Volunteer Fire Dept. is short staffed and overburdened already.*

FWP Response J: FWP would utilize site development techniques and existing Montana State Parks Public Use Rules to minimize the threat of fire resulting from driving, smoking, campfires, fireworks etc. FWP works closely with the interagency fire response team during periods of high fire danger to implement fire restrictions and closures.

Comment K: *Due to the high number of visitors to the area social distancing is impossible and locals are in danger of catching COVID-19 from out-of-state visitors.*

FWP Response K: It should be fairly easy to practice safe-social distancing at this site. Visiting the site during lower-use times of day and times of year will also provide more space and solitude if that is desired.

Comment L: *The purpose of Lakeshore protection regulations is to conserve and protect the value of the lakeshore property. There are numerous issues within these regulations that need to be addressed, such as dogs, campfires, noise, etc.*

FWP Response L: FWP parks staff and site designers are familiar with and adhere to all permitting and regulatory requirements when we do lakeshore protection projects, waterfront development, or repairs.

Comment M: *I own property next to an FAS and never have any trouble with people trespassing onto my property. FWP has installed good signs and keeps their property clean.*

FWP Response M: Very glad to hear it!

Comment N: *I trust FWP to be diligent in their stewardship and management of the park should it be acquired.*

FWP Response N: Thank you, we work very hard to be good neighbors on all FWP-owned lands. When we are made aware of a problem, we make every effort to address the issue immediately and find solutions.

III. Positive and Negative Impacts to Birds and other Wildlife from the Proposed Action

Comment A. *Having a state park next to the Flathead Lake Waterfowl Production Area (WPA) is a bad idea. The disturbances that are already occurring from heavy use of the Sliter property (particularly in the spring) would be even worse if the area became a state park.*

FWP Response A: This property has been utilized by the public for decades, and FWP believes that conditions on the WPA will improve because of the anticipated management of the Somers Beach area. The United States Fish and Wildlife Service (USFWS), which manages the WPA is an advocate of this project, as it would extend public management and protection over the whole bay and help buffer the WPA from more extensive disturbance. The USFWS and FWP agree that the WPA would likely benefit from FWP acquisition of the Sliter property in several important ways:

- FWP would actively manage the park by having staff on site, installing educational and boundary signage, and possibly installing fencing in some areas as well.
- FWP would patrol the park as part of their usual management activities and remind people not to trespass onto the WPA during closed times
- Motorized off-trail use on the Sliter property that currently occurs and is of concern to residents and the USFWS alike would be illegal under park rules and strictly enforced.
- FWP would create trails which would guide usage away from the WPA
- Providing legal access to the north shore year-round would likely reduce trespass rates on other neighboring lands and on the WPA during seasonal closures. A decrease in trespass issues and other violations would benefit the birds and other

wildlife that use the WPA and private landowners in the area.

All in all, having a state park as a neighbor is preferable to the uncertainty of what may happen to the property if it is sold to another buyer. The USFWS and FWP have a good long-standing working relationship and both parties are confident they would be able to work together to provide public access and recreational opportunities on the state park and continue to protect waterfowl and other wildlife habitat on the WPA.

Comment B: *There needs to be better management and enforcement of closure periods at the WPA regardless of whether or not the Sliter property becomes a state park. People are constantly trespassing on the WPA during nesting season from the Sliter property; on foot, bicycle, horse, and even an ultralight airplane. Dogs are also encouraged to run there or not kept from doing so.*

Comment C: *There is NO WAY a camp host will be able to control misuse and Trespass of closed Waterfowl Lands during low level, and I doubt there will be a host camped year-round, thru winter.*

FWP Response B, C: Although it is ultimately the responsibility of the USFWS to enforce public closure of the adjoining WPA, FWP believes that managed access to the Sliter property can reduce WPA closure violations that happen via the subject property. FWP will work with USFWS to develop strategies to deter public use during closure periods. Given the wide array of access points to the WPA, it is unlikely that all illegal use can be eliminated, however FWP will provide routine staff and law enforcement coverage at the state park and will target problem areas and periods when they arise.

Comment D: *As a resident who has enjoyed hunting the north shore, I am pleased to see the State's proposal to acquire the Sliter property as it would act as a buffer for the existing north shore WPA. Appropriate signage and management of a public access site would be a great improvement over the current situation which is largely unregulated and lacking adequate signage.*

FWP Response D: We will work with USWFS staff on installing effective signage along the property boundary and other management actions that will reduce the level of trespass and other impacts to the WPA.

Comment E: *The area is home to sensitive wildlife that would be displaced by the level of use associated with a state park.*

Comment F: *As a 25-year resident of Somers, I am very concerned about how this acquisition would impact the many animals that use the property as a wildlife corridor, including black bear, deer, coyote, fox, beaver, muskrat, rodents, snakes, etc.*

Comment G: *The Somers Beach area has recovered a lot after the harm caused by the tie plant and the abundance and diversity of wildlife that use the area now is incredible. Please don't let this area be ruined from overuse like other parts of the lake.*

FWP Response E, F, G: The type and level of development at the park will be decided in the next planning phase, but FWP is committed to maintaining a balance between recreational use of the property and protecting wildlife and open space values of the site. Also, if FWP does not acquire the property, it is unlikely that it would remain in its current state in the future. The property would likely be sold, with unknown consequences. FWP acquisition of the property is probably the best available option for wildlife and habitat protection now and into the future.

Comment H. *If FWP does acquire the property, keep it as a 'nature park' with limited development.*

FWP Response H: The level and type of development at the park will be decided in the next phase. FWP will be working with the community and stakeholders to solicit ideas and input on the types and locations of amenities and other development, such as parking, trails, etc.

Comment I. *Just this week BNSF hired Mild Fence Co., who installed a 6' chain link fence surrounding their properties (kudos that they had the consideration to install black, vs. annoying shiny, metal). This fence cannot be jumped by deer, and they may stress trying to figure way out.*

FWP Response I: FWP has no jurisdiction over BNSF and how they choose to fence their property. If FWP does acquire the Sliter property, FWP will work with BNSF and other neighbors on any fencing issues that arise and will promote the use of wildlife-friendly fencing whenever possible.

Comment J: *Please require people to carry in/carry out their garbage. If you provide trash receptacles it will attract animals and habituate them to human food.*

FWP Response J: FWP will consider this issue and other site regulations during the next phase if the site is acquired.

IV. Input on Type and Level of Development at the Park if the Property is Acquired.

Comment A*: Please keep the area free for local residents.*

FWP Response A: Montana residents who pay the $9 state parks fee with their annual vehicle registration have no daily entrance fees to state parks. Non-residents can purchase a Nonresident Entrance Pass which includes daily entrance and discounted camping fees.

Comment B: *The EA does not appear to mention the beach area that BNSF investigated below ordinary high water. The EA would benefit from additional discussion on viable alternatives away from this area (which includes a restored wetland) and the possible impacts additional public use of this area may have on the habitat and the EPA approved remedy.*

Comment C: *BNSF has long been a staunch supporter of an established public access area with lake access along the Northshore in Somers. BNSF's support, however, has been tempered by a desire to support public access in a way that balances prior wetland/wildlife restoration efforts, recreational values, and the environmental remedies in place at the Somers Tie Plant Site. To that end, BNSF participated in numerous discussion with public access proponents including the Sliters, the Flathead Land Trust, and FWP and were clear that BNSF could not support an access*

plan that could potentially compromise the habitat or remedy in and around the swamp pond area. The public access proposal developed from those consultations and referenced in BNSF's 2019 letter of support for the project, however, appear to have been abandoned by FWP in favor of development designed to attract a much greater volume of traffic and to direct that traffic to areas immediately adjacent to the wetland restoration area on the BNSF lakefront property. BNSF hopes to work together with FWP in reconsidering proposed development for the property in a way that more appropriately balances wildlife values with recreational values.

FWP Response B and C: There has been no abandonment of any previous FWP agreements with BNSF as no development has been formally proposed by FWP. Several years ago, FWP, BNSF, and the Flathead Land Trust had discussions about creating an undeveloped FAS on the Sliter family property, but over time it was determined to pursue the formation of a new state park rather than an FAS. Use restrictions and the type and level of development of the park will be determined in a subsequent planning process, but as the swamp pond is fenced and not open to the public that area should not be impacted by recreational use. The local community has used the access route to the lake just west of the BNSF mitigation pond for over 75 years and FWP currently has no plans of changing this traditional and popular access route. FWP has been assured by EPA and DEQ that the beach area below the swamp pond is safe for normal recreational access. Acquisition of the Sliter family property as a new Montana State Park will protect and enhance wildlife values on the north shore of Flathead Lake.

Comment D: *The swim beach next to the boat launch at Somers FAS has boat trailer people parking in the swim beach parking area, and no one polices that. I witnessed a boat hauler take a side mirror out of a small parked car. Boat haulers should not be towing thru that lot. And the lane should be widened enough to park all along it, as people do it anyways.*

FWP Response D: This comment is outside the scope of this EA but has been passed along to the Region 1 FAS Manager.

The following is a summary of suggestions for how the property should be developed and regulated in the event it is acquired and turned into a state park.

- *Keep the site as a 'nature park with no development besides parking, toilets, and trash receptacles.*
- *Parking lots and trails should be gravel and toilets hidden with landscaping. Everything possible should be done to maintain the wild-ness of the area.*
- *Please have the park be day-use only in order to reduce impacts to neighbors and wildlife.*
- *Would like to see outdoor showers for rinsing off after swimming and flush toilets.*
- *Keep the number of park users limited to available parking within the park. Doing that would keep numbers low and reduce impacts to neighbors and wildlife.*
- *We need more camping sites in the area, please put some in.*
- *Please consider the incorporation of rustic recreational lodging amenities such as yurts, operated as part of the network of cabins and fire lookouts.*
- *Please, do not include camping at the site. That would be devastating to the neighbors to the west, with constant noise and light pollution.*

- *If campsites are inevitable, please cluster them on the northeast corner of the property in order to reduce negative impacts to neighbors and wildlife.*
- *If camping is allowed, it should be tent-camping only. No noisy generators!*
- *We need more boat access in the area, please include a non-motorized boat launch*
- *If a boat launch is included, it should be closed during nesting season to reduce impacts to birds on the WPA.*
- *If there is a boat access, it should be walk-in only.*
- *All activity/trails should be kept east of the BNSF 'Swamp Pond'.*
- *Dogs should be leashed at all times.*
- *Dogs should be prohibited, at least during the nesting season.*
- *Campfires and fireworks should be prohibited.*
- *Please keep the area dark at night to limit light pollution.*
- *Development should be done in phases so negative impacts to neighbors and the community can be observed and responded to before moving ahead with the next phase. For example, start with day-use only and see how that goes before adding camping in.*
- *All access should be non-motorized, including dirt bikes, boats, and jet skis.*
- *Signs should be installed informing visitors of ground water/creosote contamination and any potential health risks. Families should have needed information to determine the risks of recreating at the park.*
- *Signage should be installed to prevent trespassing on private property and WPA.*
- *Signage should be installed to warn people of changing lake conditions. Even though the water is shallow there, large waves can come in quickly and swamp unsuspecting boaters and endanger swimmers.*
- *The area should be completely closed off until the state park completes the initial phase and staff are in place to enforce regulations and control disturbances.*
- *Would love to see reservable horse trailer parking spaces. Riding horses on the lake shore is an unforgettable Montana experience.*
- *Do not forget that FWP has funding from the Montana Department of Transportation for roads and infrastructure improvements which are statutorily set aside to be used only by FWP for state park projects. This is FWP's share of the gas tax collected from purchases of motorboat gas statewide.*
- *Be proactive when deciding how to manage the park. Some sports, like kite surfing and kite boarding, are just catching on at Flathead Lake and could really impact other users if allowed at the park.*
- *Please keep the area rustic and day-use only. Other state parks around the lake offer expanded amenities like RV hookups and large paved areas. Let's keep this site as wild as possible.*
- *There is a lot to consider, please don't rush into any major decisions on development.*

FWP Response: We will take all these comments into consideration as we proceed to the development planning phase. We encourage interested persons to remain involved and participate in future public participation processes.

FWP Recommended Alternative and Final Decision

I have evaluated the EA and applicable laws, regulations, and policies and have determined that the proposed action will not have significant negative impacts on the human environment. Therefore, an environmental impact statement (EIS) will not be prepared.

Based on the analysis in the EA, I find Alternative B (the Proposed Action) to be the preferred alternative and support the acquisition of 106 acres of land along the north shore of Flathead Lake for inclusion in the Montana State Park system.

Somers Beach is a unique part of Flathead Lake, with its broad sandy beach, abundant birds and wildlife, and long history of community use. Many people wrote in expressing their heartfelt hope that this area would remain open and accessible to the public in perpetuity, so their children and grandchildren could make the same wonderful memories of playing and swimming on the beach that they did. FWP acquisition of the property would ensure that continued public access and prevent residential or commercial development of the property.

The proposed acquisition follows the FWP Statewide Fisheries Management Program and Guide, which directs FWP to pursue opportunities to increase public asses on popular water bodies such as Flathead Lake, where user numbers are increasing to levels above the capacity of existing sites. The acquisition also compliments the broader conservation effort known as the Flathead River to Lake Initiative. This initiative is a coalition of private landowners, land trusts, conservation organizations, and county, tribal, and federal agencies who work together to conserve and restore wetlands, floodplains, riparian area, and associated uplands along the north shore of Flathead Lake and northward into the Flathead River. Conserving and restoring these critical lands will help protect water quality, fish and wildlife species and habitat, open space, productive farm soils, and recreational opportunities for local residents and visitors.

Some people voiced their concerns that neighboring homeowners, the WPA, and area wildlife would be negatively impacted, but I believe that state ownership and active management of the property would alleviate many of the problems that are currently an issue, such as off-road vehicle use, noise, litter, trespassing, and unsafe driving and parking. FWP pledges to work with neighbors and the community to develop site visitation rules and amenities that are a good fit for the site, neighborhood, and town, and that conserve the wildlife and open space values of the property. FWP will also continue to work closely with BNSF, USFWS, EPA, DNRC, and DEQ as the project moves forward.

If the proposed acquisition is approved, FWP will begin the next phase of planning, which will include drawing up different plans for parking and other amenities, considering different use restrictions, etc. We will continue to work with the community, neighbors, partners and public throughout that process. In the meantime, FWP will develop strategies to provide periodic staff presence and law enforcement based on visitor use, install regulatory and boundary signage, develop interim parking areas, and provide portable restrooms. The subsequent public process will help to determine permanent amenities and staffing needs for the park.

Overall, this EA and public participation process found that the proposed action of acquiring the Sliter property for inclusion in the Montana State park System would provide a wide range of recreational and conservation benefits for Montana residents and visitors. Many, if not all of the potential negative impacts can be mitigated, and most of the issues are expected to improve under state ownership and active management and site regulations.

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.
The final EA may be viewed at or obtained from Montana Fish, Wildlife & Parks, Region One, 490 N. Meridian Road, Kalispell, MT 59901. Please direct requests and questions to:

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10/20/2020
Date