

Environmental Assessment Decision Notice
Antelope Coulee Conservation Easement
Montana Fish, Wildlife and Parks
October 2019

Description of Proposed Action

The Montana Department of Fish, Wildlife and Parks (FWP) proposes to acquire a conservation easement on 9,706 acres in Treasure County north of Hysham.

Conservation easements are voluntary binding agreements, between a landowner, and in this case, FWP. Through the Easement, FWP pays that landowner and, in exchange, the landowner agrees to limit certain uses of their private property to protect high-priority wildlife habitat and conservation values. The conservation easement is recorded with the land in perpetuity. Developing and implementing conservation easements requires an ongoing partnership between FWP and willing private landowners with the primary intent of conserving native wildlife habitats and providing public access, while keeping the land in private ownership.

The Antelope Coulee Conservation Easement is adjacent to the FWP Isaac Homestead Wildlife Management Area and publicly accessible DNRC land. The Amelia Island Wildlife Management Area and Amelia Island Fishing Access Site are directly across the Yellowstone River from the proposed Easement on the south shore.

From a wildlife habitat perspective, the proposed Antelope Coulee Conservation Easement would conserve diverse habitats; ranging from cottonwood dominated riparian habitats along the Yellowstone River to open prairie grasslands. The upland portion of the ranch includes yearlong habitat for species such as antelope, mule deer and sage grouse and is in the Montana Sage Grouse Habitat Conservation Program's core area. The Yellowstone River portion of this ranch includes riparian habitat for ring-necked pheasants, wild turkeys, white-tailed deer, Canada geese and non-game wildlife. This Easement would require the landowner to comply with FWP's Minimum Grazing Standards and would require equitable public access.

Based upon the terms of the Easement, an independent appraisal service valued the Easement at \$3,439,000. The appraisal is currently subject to the standard review process and therefore is pending. The purchase of the Easement would not exceed the appraised value.

Montana Environmental Policy Act and Public Process

The Montana Environmental Policy Act (MEPA) requires FWP to assess impacts to the human and natural environment. Formal public participation in the MEPA process was initiated with a

public scoping notice. The public scoping effort, regarding the conservation easement, was conducted February 16 to March 16, 2018, wherein the public was asked to identify issues or concerns related to the proposal. Copies of the scoping notice were mailed to neighboring landowners, interested parties, Treasure County Commissioners, Montana Department of Natural Resources Conservation (DNRC) and Bureau of Land Management (BLM). Notice of the public scoping period was placed in the *Forsyth Independent Press*, *Billings Gazette*, *Helena Independent Record*, and on the FWP website. Two comments were received during the scoping process and addressed in the draft Environmental Assessment (EA).

The draft EA was released to the public August 28th, 2019 with a comment period ending September 26th of this year. A legal notice of the EA release and comment period was published two times in each of the following newspapers: *Forsyth Independent Press*, *Billings Gazette* and *Helena Independent Record* and was posted on the FWP website. Direct mailing and/or email notification was provided to adjacent landowners, interested parties, Treasure County Commissioners, DNRC and BLM staff. The draft EA, which includes the draft deed of easement and the draft management plan, was available to interested parties on the FWP website, at FWP Region 7 Headquarters and at the public hearing in Hysham on September 12th, where 16 members of the public attended.

Summary of Public Comment

A total of 14 comments were received through the public comment period, eight were from individuals and five were from organizations. Eight comments supported, one opposed and five comments neither supported nor opposed the Easement. No comments made specific requests of changes to the Easement documents. Comments are summarized in the table on the following page and copies of the comments are presented in the Attachment along with FWP's response.

Comment	Support or Oppose	Comment Summary	FWP Response
1-8	Support	Supported conserving wildlife habitat and creating public recreational opportunities	Thank you for your comment.
9	Neutral	Concerned about perceived lack of motorized access.	See Attachments Section (page 9)
10	Neutral	Concerned about increased impacts to county roads	See Attachment Section (page 10)
11	Neutral	Concerned about access to portions of the Easement south of the Yellowstone	See Attachment Section (page 10)
12	Neutral	Requested signing between their private land and DNRC parcels.	See Attachment Section (page 11)
13	Neutral	Questioned how FWP would prevent trespassing	See Attachment Section (page 12)
14	Oppose	Area landowner believes Easement will negatively impact their property	See Attachment Section (page 14)

DECISION NOTICE

In accordance with the Environmental Assessment process, a decision must be rendered by FWP which addresses the concerns and issues identified for this proposed action. 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.

After review of this proposal, it is my decision to accept the draft Environmental Assessment as supplemented by this Decision Notice and changes herein as final, and to recommend proceeding with the proposed Antelope Coulee Conservation Easement.

The Final Environmental Assessment may be viewed on FWP's Internet website: <http://www.fwp.mt.gov> or be obtained from Montana Fish, Wildlife & Parks, Region 7 Headquarters, P.O. Box 1630, Miles City, MT 59301, (406) 234-0900.

Brad Schmitz



FWP Region 7 Regional Supervisor

Date: October 1, 2019

Attachments

Public comments with personal information redacted

Comment One: Support



Protecting Montana's wildlife,
land, waters and hunting & fishing
heritage for future generations.

Sept. 4, 2019

Shane Colton, Chair
Montana Fish and Wildlife Commission
1420 E. Sixth Ave.
Helena, MT 59624

RE: Proposed Antelope Coulee Conservation Easement

Dear Chair Colton and Fish and Wildlife Commissioners,

The Montana Wildlife Federation is our state's oldest conservation and sporting organization. We were founded in 1936 when hunters joined landowners to restore depleted wildlife in our state. We have worked with landowners for decades to maintain working agricultural lands, preserve important wildlife habitat and provide public opportunities for hunting and wildlife recreation.

The proposed Antelope Coulee conservation easement near Hysham in Treasure County would achieve all of those goals. This 9,706 acres is excellent wildlife habitat that includes native grasslands as well as river bottom and riparian environments. The variety of this property is impressive and as such it supports a variety of wildlife species, including game and non-game animals and birds.

The property would offer excellent hunting opportunities of up to 500 days per year for white-tailed and mule deer, antelope, upland game birds and waterfowl. In addition, the property would provide excellent wildlife watching opportunities.

The easement would not only protect in perpetuity more than 9,700 acres, but also open up additional adjoining public lands. That makes the conservation and access footprint of the project significantly larger.

MWF supports the use of Habitat Montana as well as federal Pittman-Robertson hunter dollars to complete this quality project. Please move forward with the Antelope Coulee conservation easement.

Sincerely,

Dave Chadwick
Executive Director

Comment Two: Support

From: rjcrooks@msn.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Friday, September 6, 2019 7:25:42 AM

Name: Robert Crooks

City:

This is an area I have hunted in extensively. I am familiar with the area and it's wildlife. I have read this public notice and I am fully in support of this conservation easement as it has been outlined in the document.

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Three: Support

From: [John William Miller](#)
To: [Atwood, Steve](#)
Subject: conservation easement
Date: Saturday, September 7, 2019 8:04:04 AM

To whom it may concern;

I recently read in the Billings Gazette about plans to purchase a conservation easement north of Hysham. I wish to let you know I fully support this purchase by the FW&P. Any time these opportunities arise we need to take full advantage of them.

Thank you for your continued efforts to protect and manage our most valuable natural resources - habitat, fish, and wildlife.

Sincerely,

John W. Miller

mtjwmiller@gmail.com

Comment Four: Support

From: otisranch@wispwest.net
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Monday, September 9, 2019 9:02:50 AM

Name: Bert Otis

City: Emigrant

Dear Fish Wildlife & Parks Commission,

I support the purchase of the Antelope Coulee Conservation Easement. In the past I've been given the privilege to hunt most of this land and it is well worth the value of the easement. Please Thank the Decock Ranch Company for following in their families tradition of thinking about public access.

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Five: Support

From: ronb.stevens@gmail.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Saturday, September 14, 2019 9:26:21 AM

Name: Ronald B. Stevens

City: Kalispell (but Forsyth periodically)

Outstanding!!! My twin brother and I were born in Forsyth 4 March 1935 and hunted that area through High school. We still return there for recreation. I personally have invested \$17,000 in nine recreational improvements at the East and West Fishing Access sites on the Yellowstone River in Forsyth. This addition will further improve public access to this wonderful recreation area. Many thanks to the DeCock family and the FWP Department!

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Six: Support

From: mrinellabow@gmail.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Tuesday, September 24, 2019 6:37:16 PM

Name: Matthew James Rinella
City: Miles City

This easement would provide permanent public access and habitat protection to a large section of the lower Yellowstone River, a portion of the river where access is currently extremely limited. As Region 7 representative for Montana Backcountry Hunters and Anglers, I wholeheartedly support this proposed easement

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Seven: Support

From: missoulabart@gmail.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Wednesday, September 25, 2019 8:25:13 AM

Name: Bart Morris
City: Missoula

As a landowner and conservation easement owner I believe this a great opportunity for the landowners and public. A win/win! Collaborative projects like this are so critical for our future. Good luck in making this happen!

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Eight: Support

From: penrodm@gmail.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Thursday, September 26, 2019 1:40:14 PM

Name: Mike Penfold
City: Billings
Our Montana supports the acquisition of this easement. Mike Penfold Field Program Director.

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

Comment Nine: Neutral

From: mssa@mtssa.org
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Monday, September 9, 2019 11:49:44 AM

Name: Gary Marbut, MSSA
City: Missoula
Many such proposals in recent memory have come laden with fine print restrictions that prohibit any motorized access, even for game retrieval. ♦ The effect is to exclude most older hunters like me, and other hunters less vigorous. ♦ Sure, it's nifty when FWP can glom onto 10,000 acres, and then combine that with other parcels to make a huge parcel. ♦ But when such huge parcels have overlapping rules preventing motorized access, as is commonly done, then that sets up a private hunting preserve for people who can afford to keep horses or pay for an outfitter, and for those physically vigorous enough to pack out an elk for several miles.

I didn't see anything in media reports about the current proposal concerning motorized access. ♦ I'll bet the proposal prohibits motorized access, but I'd be pleased to be wrong about that. ♦ I'd like to see, at a minimum, an opportunity for motorized access to set up and remove a hunting camp, and for game retrieval.

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

FWP Response to Comment Nine: Thank you for your comment. Because of the property's configuration in relation to the Mission Valley and Ingomar Roads, which are county roads, the furthest distance away from a public access point on the Easement is approximately two miles

of relatively flat topography. The Easement requires that a minimum of 5 parking areas will be established along county roads. Therefore, it is FWP's position that the Easement area is sufficiently accessible. While the access terms are identified as non-motorized, the Easement does allow for the public access terms to be expanded. The Draft Management Plan states in Chapter Eight (page 93 of the EA) that the Landowner may, "Provide more leniency than the ranch rules on a case-by-case basis. For example, they may allow disabled hunters to drive on ranch roads."

Comment Ten: Neutral

Verbal comment as received at the public meeting: Wade Keyes – Hysham, MT.

Expressed concern about the costs of impacts to the County Road Department due to potential increase in recreational use tied to the Conservation Easement. The individual also commented that it's the landowner's private right to do an easement.

FWP Response to Comment Ten: Thank you for your comment. While an increase in hunter use on the Land is anticipated from current use, it is not expected to be at a level that results in an additional strain on the County's transportation infrastructure. In the past, this property was enrolled in FWP's Block Management Program and no infrastructure stressors were reported; a similar level of use is expected under the terms of the Easement. It should also be noted that FWP does not have the authority to assist with county road projects. FWP is authorized by MCA 76-6-103 to acquire conservation easements to protect "significant open-space land and/or the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest."

Comment Eleven: Neutral with Management Request

Verbal comment as received at public meeting: Dennis Kolb – Hysham, Montana.

Expressed concern about public access to portions of the Easement that were perceived to be south of the Yellowstone River adjacent to his property. The landowner requested that the access to these portions be excluded in the Management Plan.

FWP Response to Comment Eleven: Following the public meeting, Regional FWP staff have followed up with the landowner to clarify that no portion of the Easement was adjacent to his property. The confusion was attributed to the individual's belief that the Easement would include all of sections T7N R36E 31 and 32. However only the portions of those sections that are north of the Yellowstone River would be included in the Easement. It is important to remember that the Easement does not supersede existing law and does not grant access to or across neighboring private land.

Comment Twelve: Neutral with Management Request

From: [gdruff](#)
To: [Atwood, Steve](#)
Subject: Antelope Coulee Conservation Easement comments
Date: Thursday, September 26, 2019 4:19:59 PM

Mr. Atwood,

We are commenting today, not to protest the Conservation Easement, but to ask for some help to keep the added influx of hunters from the Easement and state lands from straying into private property. We understand that the Easement itself will have extra signage along the boundaries. We are asking if the FWP would be willing to add signage along the edges of 2 state sections that border the Easement and also the Haveman Ranch? The first section is S 34, T 07 N, R 35 E, all. The south border of this section opens into the Haveman Ranch and hunters have a problem staying out of this piece of private property. The second is S 32, T 07 N, R 35 E, E 2. The Haveman Ranch borders this half section on the west. Any help FWP could give to hunters identifying the division of state and private property would be appreciated.

Thank you.

Sincerely,

Haveman Ranch Shareholders:

Virginia May
Howard Jay Haveman
Kay Sitton

FWP Response to Comment Twelve: Thank you for your comment. It is important to note that the Easement terms apply only to private land. However, the request for additional signing along the boundary between the State of Montana, Department of Natural Resources (DNRC) land and your private land is reasonable. FWP would like to assert that the east ½ section of T7N R35E S32 is legally accessible from the Ingomar Road. As a result, the Easement would not enhance the access to this parcel. The Easement would enhance public access to T7N R35E S34. If the Easement is completed, FWP is committed to posting the boundary between these identified parcels and your land before the beginning of the first hunting season after the Easement is recorded in an effort to maintain positive neighbor relations.

Comment Thirteen: Neutral

From: powellkathy@msn.com
To: [Atwood, Steve](#)
Subject: Public Comment: Antelope Coulee Conservation Easement Draft Environmental Assessment
Date: Thursday, September 26, 2019 11:06:30 PM

Name: Kathy Powell-Case

City: Olathe

How will you make sure that hunters or others won't trespass on neighboring lands?

This e-mail was generated from the 'Antelope Coulee Conservation Easement Draft Environmental Assessment' Public Notice Web Page.

FWP Response to Comment Thirteen:

Thank you for your comment. Per MCA 87-6-415, access to private land requires the permission of the landowner. To minimize trespass, FWP would have the right “to place and replace, during inspections authorized above, small markers to identify boundaries, corners, and other reference points on the Land” as identified in section II.B.4 of the Easement (page 29 of the EA). Also, per terms of the Easement, the Landowner may participate in FWP programs, including the hunter access management program known as the Block Management Program. The Block Management Program provides landowners with materials such as maps and signs to minimize trespass issues. Ultimately, it is the responsibility of individuals not to trespass.

Comment Fourteen: Oppose

From: [S. Huffard](#)
To: [Atwood, Steve](#)
Subject: Antelope Coulee Conservation Easement EA
Date: Thursday, September 12, 2019 2:51:50 PM

I am the trustee of the Ida Joan Seaman Trust. Our land sits along the Yellowstone River at Hysham, it is next to the Amelia Island. I am not in favor of this easement for several reasons.

1. This impacts us directly.
2. First time we were ever notified.
3. Hunters, fisherman and others coming directly from the DeCock Ranch into our property, via the river, and or use of Amelia Island. There for crossing onto our property, hunting and fishing or just recreational use on our land without permission or signing into boxes located at the main entrance of our property. We have seen people coming along the river, by walking onto our property, or using boats, motor vehicles, such as Gator all terrain vehicles. This is a direct violation of our rights as the land owner. We are under the Block Management program, but this not what we want. We are not getting credit from the Block Management Program because of this. These violators have destroyed our peace, our land, river front, left their garbage behind.
4. We have a natural water way going thru our wooded area along the river, which includes several open areas, right next to the river, of which have the potential of being destroyed by users. These are really great areas to fish from, wildlife, bedding areas, and are hidden, from the main entrance to our property. But are in full view from the proposed easement area.
5. I see our taxes going up to pay for any future improvements, roads, bridges, paths, etc.
6. The very fact that this easement could be sold. To others conservation groups. Environmentalists Groups. Therefore stopping us private landowners using our land as we want.
7. This DeCock Ranch, even though is also private, who is to say that the family members could not become outfitters, or are already, use this,easement to manipulate the area, there for cutting out other landowner's from benefiting from compensation.
8. The proposed area for a landfill, is way too close the the Yellowstone River.
9. This is an Easement that is forever.
10. This Easement is way to vague, not understandable to most people.

Protesting Landowner
Nancy Brook - Beneficiary of
Sally Jo Huffard, Trustee of the
Ida Joan Seaman Trust
Hysham, MT

FWP Response to Comment Fourteen: Thank you for your comment. Below are responses to your specific comments.

- 1) Nothing specific to address.
- 2) The public scoping regarding the conservation easement was conducted February 16 to March 16, 2018, wherein the public was asked to identify issues or concerns related to the proposal. Copies of the scoping notice were mailed to neighboring landowners. Your name was on the list to receive the notice. The Legal Notice of the Environmental Assessment was published two times in each of the following newspapers: *Forsyth Independent Press*, *Billings Gazette* and *Helena Independent Record*. Public notice was placed on the FWP website. Direct mailing and/or email notification was provided to adjacent landowners and your name was on the list to receive the EA notice. It is important to keep in mind that the Easement has not been approved. The Fish and Wildlife Commission will review comments and make their decision. During that meeting the Commission may take public comment.
- 3) A fundamental difference between the Amelia Island Fishing Access Site that is adjacent to your property is that with the Easement, the DeCock Ranch will remain private land. Per MCA 87-6-415, access to private land requires the permission of the landowner. The Yellowstone River is between your property and the Easement so trespassing by foot is not anticipated. Furthermore, because there is an existing Fishing Access Site (Amelia Island) on the south side of the river, there are no public boat ramp developments identified in the terms of the Easement.

FWP values your participation in the Block Management Program and your contribution towards public hunting. FWP recognizes that ownership along the Yellowstone River is dynamic and often difficult to ascertain FWP staff would be willing to help you determine if there are measures that can be taken to assist you with the problems you have identified.

- 4) Again, the Easement does not grant access to your property and law states that access to private land requires the permission of the landowner. FWP's position is that the Easement will protect and enhance the conservation values of the DeCock Ranch. Conversely, the statement could then be made that Easement may protect and enhance your property's viewshed. As outlined in the EA, FWP is authorized by MCA 76-6-103 to acquire conservation easements to protect "significant open-space land and/or the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest."
- 5) As outlined in the EA, there would be no impact on local or state tax bases or revenues, Montana Code Annotated (MCA)76-6-208 states that, "Any land subject to such easement may not be classified into a class affording a lesser calculation solely by reason of the creation of the easement." The level of use is not expected to create long-term issue with transportation infrastructure.

- 6) That is true that the land could be sold to another willing buyer and the Easement terms are connected to the deed and thus would transfer to the new owner.
- 7) The Landowner cannot outfit as defined in section II. D.9, (page 39 of the EA). “The sale or lease of access to the Land for hunting, fishing, trapping or wildlife viewing purposes, whether or not as a part of a commercial outfitting or guiding business, is prohibited. Operating a commercial hunting or fishing operation or charging fees (sometimes known as trespass fees) for hunting, fishing, trapping, or wildlife viewing on the Land or for access across the Land to reach public land or other private land, is prohibited.”
- 8) The landfill site has been used for household and agricultural rubbish for years. This site is located near existing ranch buildings (shop, corrals, etc....) and has little conservation values to protect. As identified in the Easement, section II.D.17 (page 41 of the EA) the landfill, hazardous material cannot be deposited in the landfill. Because of these reasons FWP maintains the landfill is in an appropriate location.
- 9) That is correct. The Easement would be in perpetuity.
- 10) Nothing specific to address.