



## DECISION NOTICE

### B&C French Habitat Conservation Lease

May 15, 2024

#### **ACTION**

Decision Notice (DN). Pursuant to the Montana Environmental Policy Act or MEPA, Montana Fish, Wildlife & Parks (FWP) shall prepare a DN for the proposed action. The DN must identify the agency decision, the reasons for the decision, and any special conditions surrounding the decision or its implementation.

#### **BACKGROUND AND AUTHORITY**

According to the applicable requirements of MEPA, and its implementing rules and regulations, before a proposed action may be approved, environmental review must be conducted to identify, consider, and disclose any potential impacts of the proposed action on the affected human environment. The level of environmental review will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors. *Title 75, Chapter 1, Parts 1 through 3, Montana Code Annotated (MCA)*.

On August 12, 2022, following MEPA's required public participation process, FWP published their decision to approve a *Programmatic Environmental Assessment* or *Programmatic EA* prepared and publicly processed to identify, consider, and disclose any potential impacts of FWP's *Habitat Conservation Lease Program* or *HCLP* on the affected human environment. A copy of the subject *Programmatic EA* and associated *DN* are available for review <https://fwp.mt.gov/conservation/habitat/habitat-conservation/lease-program>. The approved *Programmatic EA* and § 87-1-241, *MCA*, require FWP serve public notice for each specific *HCLP* project covered under the scope of the approved *Programmatic EA* each time a specific *HCLP* project is proposed and recommended for approval. A copy of the required public notice for B&C French Habitat Conservation Lease is available for review at <https://fwp.mt.gov/news/public-notices>.

Further, pursuant to *ARM 12.2.440(1)(a)*, on May 12, 2023, following MEPA's required public participation process, FWP approved a *Supplemental Programmatic EA* proposing various changes to the *HCLP*, as initially detailed and approved by the *Programmatic EA*. More specifically, the *Supplemental Programmatic EA* proposed changes to the payment level for participation in the *HCLP* and added a penalty-free *HCLP* buy out provision. A copy of the *Supplemental Programmatic EA* and associated *DN* are available for review at <https://fwp.mt.gov/conservation/habitat/habitat-conservation/lease-program>.

FWP determined the proposed B&C French Habitat Conservation Lease falls within the scope of the approved *Programmatic EA*, as modified by the *Supplemental Programmatic EA*. Therefore, with consideration for the above-cited, prior programmatic review of the *HCLP*, and pursuant to *ARM 12.2.430, General Requirements of the Environmental Review Process*, the B&C French Habitat Conservation Lease has met all obligations for approval pursuant to MEPA and § 87-1-241, MCA.

### **DESCRIPTION OF PROPOSED ACTION**

Detailed information concerning the B&C French Habitat Conservation Lease, including the public notice and map materials, is available for review at <https://fwp.mt.gov/public-notices/news/2024/mar/0325-notice-of-bc-french-habitat-conservation-lease>.

### **PUBLIC INVOLVEMENT**

The public process for the *Programmatic EA*, *Supplemental Programmatic EA*, and their respective *DNs* is detailed within those respective process documents, see links above. Also, specific to the proposed action, and pursuant to § 87-1-241, MCA, a 30-day public comment period was announced on March 25, 2024, and a public meeting was held at the Ranchers Stewardship Alliance office in Malta on April 18, 2024. Public notice was sent through FWP's regional distribution lists as well as to owners of neighboring properties.

### **PUBLIC COMMENT AND FWP RESPONSE**

FWP received substantive public comments on the proposed action. A substantive public comment was defined as the identification of the proposed action, or elements of the proposed action, as being outside the scope of the Programmatic EA and/or Supplemental Programmatic EA previously prepared and publicly processed for approval of the HCLP program. The following provides the public comments received and FWP response(s):

**Comment:** I fully support the B&C French Habitat Conservation Lease proposal. This is a win-win for all Montanans and our wildlife. Hopefully, Montana hunters/citizens will gain strictly managed access to the area for legal hunting purposes. Also, many thanks to the French Family for participating in this very important wildlife and agriculture conservation program.  
Thank you for listening.

**FWP Response:** FWP agrees. Habitat Conservation Leases help conserve priority wildlife habitats on private lands while also supporting working agricultural lands, as well as public access for hunting and other recreational opportunities.

**Comment:** Using sportsman dollars to pay for a 40-year easement so the next of B&C French family can sell the property for private hunting, residential or commercial purposes is a waste of sportsman's dollars. (Do whatever you want with the General Fund money). If the land needs to be protected for its historical and traditional use then that protection should be into perpetuity, like Forest Service conservation management areas. 40 Year conservation easements are a waste of sportsman dollars and I strongly object.

**FWP Response:** Habitat Conservation Lease Agreements meet the intended use of Habitat Montana dollars and have potential to ensure significant acreages of priority habitats are conserved for at least three decades. Because Habitat Conservation Leases are valued less than perpetual easements, many more acres can be conserved with leases. The Habitat Montana funding is only a percentage of hunting license fees, as

described in 87-1-242, MCA. FWP intends to utilize federal Pittman-Robertson (P-R) funding for the Habitat Conservation Lease Agreements, matched with Habitat Montana dollars at a 3:1 ratio, as well as the Migratory Bird Wetland program. Habitat Conservation Leases are voluntary agreements to conserve specific parcels of private property in areas of priority habitats in Montana. FWP recognizes the difficulty some landowners may face trying to make decisions about their property for future generations, especially when it comes to family, values and finances. Habitat leases help bridge the gap between no conservation and perpetual conservation. Pursuing Habitat Conservation Lease Agreements does not preclude using Habitat Montana or federal funding sources for conservation easements or acquisitions and may lead to permanent protection in the future. Maintaining working ranches on the landscape is important to maintaining important wildlife habitat. These leases are designed to maintain working ranches and their valuable wildlife habitats. They will enable landowners and the department to develop relationships that may lead to future permanent conservation. Past experience with 30-year leases has suggested landowners are unlikely to terminate conservation lease agreements.

**DECISION**

FWP reviewed the proposed action and all public comments received in response to the proposed action. Based on this review, and pursuant to the applicable requirements of MEPA and § 87-1-241, MCA, FWP hereby recommends approval of the proposed B&C French Habitat Conservation Lease. Pursuant to § 87-1-209, MCA, approval of the proposed action is a function of the Montana Fish & Wildlife Commission and the Montana Land Board.

Sincerely,

A handwritten signature in black ink that reads "Drew Henry". The signature is written in a cursive, flowing style.

Drew Henry  
Region 6  
Montana Fish, Wildlife & Parks