



DECISION NOTICE

Williams Family Trust Habitat Conservation Lease FWP-DN-WL-R3-24-063

August 21, 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 at <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 the William Family Trust Habitat Conservation Lease project 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 Williams Family Trust 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 Williams Family Trust Habitat Conservation Lease project has met all obligations for approval pursuant to MEPA and § 87-1-241, MCA.

DESCRIPTION OF PROPOSED ACTION

Detailed information concerning the Williams Family Trust Habitat Conservation Lease project, including the public notice and map materials, is available for review at <https://fwp.mt.gov/public-notices/news/2024/jul/0711-williams-family-trust-notice-of-habitat-conservation-lease-proposal>.

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 July 11, 2024, and a public meeting was held at the Townsend Public Library community room on July 23, 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* prepared and publicly processed for approval of the *HCLP*. In some cases, multiple individuals provided the same or similar comment; these comments were summarized, categorized, listed once, and a single FWP response is provided below. The following constitutes a synopsis of public comments received and FWP's response to those comments.

Comment: A couple of commentors expressed support or at least no objections to the proposed lease.

FWP Response: Thank you for your comments.

Comment: A commentor asked about the cost of this particular lease.

FWP Response: The estimated cost of the proposed Williams Family Trust Habitat Conservation Lease is approximately \$339,770.

Comment: One commentor was concerned about using Habitat Montana funding for leases rather than perpetual easements. Felt that leases should only be used if they opened up 5,000 to 10,000 acres or more of public lands to public access.

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 a minimum of three decades – many more acres than could be affected with only conservation easements. Pursuing Habitat Conservation Lease Agreements does not preclude using Habitat Montana or federal funding sources for conservation easements or acquisitions. While the habitat conservation lease program provides for a minimum level of public recreation, the primary purpose of the habitat conservation leasing program is to protect priority wildlife habitats.

A perpetual easement doesn't work for every landowner. However, the agreements include a penalty-free buyout provision that allows landowners to extinguish their Habitat Conservation Leases for the sole purpose of replacing them with permanent conservation easements providing similar protections. This

option provides additional flexibility to landowners, integrates the Habitat Conservation Lease program with other permanent conservation programs in Montana, and ensures that leases may lead to permanent protection in the future.

Comment: A commentor felt that this lease was a fiscally irresponsible use of funding given that the property is already enrolled in Block Management and that the property isn't in core sage grouse habitat.

FWP Response: The Habitat Conservation Lease program provides for a minimum level of public access, ensuring that even if this landowner should withdraw from the Block Management program in the future, free public access will be continued for the next 40 years.

Additionally, the program is not only intended to support recreation opportunity, but also to retain substantial blocks of high priority native or restored wildlife habitats while keeping working agricultural lands as working lands. Habitat Conservation Leases focus on five priority habitats that have been identified as being the highest conservation priority for maintaining Montana's diverse wildlife, including game species and Species of Concern. These are: shrub grasslands (including the big sagebrush grasslands included in this project), mixed grass prairie, pothole wetland grasslands, intermountain shrub and grasslands, and riparian floodplain habitats. FWP applies a ranking criterion to applications. Sage-grouse core habitat does receive higher ranking, however, there are additional species and criteria to be considered- see Programmatic EA, APPENDIX B Wildlife Associated with Each of the Five Focal Habitats (State Wildlife Action Plan 2015).

Comment: Once commentor urged FWP to enhance transparency in its process, particularly given what they felt was the temporary lease program's lack of universal acceptance. To facilitate clearer public understanding and informed commentary, they asked the department to include in each proposed lease a comprehensive property evaluation, an annualized cost per acre, the total price, detailed public access information, and an assessment of specific threats to the parcels of land in question.

FWP Response: The department thanks you for your comments and recommendations.

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 Williams Family Trust Habitat Conservation Lease project. Pursuant to Pursuant to § 87-1-209, approval of the proposed action is a function of the Montana Fish & Wildlife Commission and the Montana Land Board.

Sincerely,

Nathan Lance

Nathan Lance
Acting Region 3 Supervisor