



**Region One
490 North Meridian Road
Kalispell, MT 59901**

**DECISION NOTICE
and
Finding of No Significant Impact
for the**

**Menagerie Permit Application
Paul and Anne Schnell
8 Davis Lane, Noxon, MT 59853**

November 1st, 2021

Description

The applicants (Paul and Anne Schnell; 8 Davis Lane, Noxon, MT 59853) wish to obtain a permit for a roadside menagerie for exhibition of various raptors for educational purposes (e.g., live eagle exhibition on- and off-site). The Schnell's have decades of experience working with captive raptors for education purposes throughout the United States and possess the required Federal permits for the species listed in the permit application (Table 1). As part of the menagerie permitting process, Montana Fish Wildlife &

Table 1. Proposed species and numbers animals to be held in captivity

Species	Number
Bald Eagle	1
Golden Eagle	1
African-hawk Eagle	1
Harris Hawk	2
Peregrine Falcon	1
Eurasian Eagle Owl	2
Barn Owl	1
Marshall Eagle	1

Parks conducted an environmental Assessment (EA) to fulfill obligations outlined in MCA 87-4-802-803. Site visits were made to the facility to evaluate proposed housing, care, treatment, feeding, and sanitation of animals kept and for the protection of the public from injury by those animals. A

department expert in avian housing and care (i.e., animal husbandry) visited the site. The area wildlife biologist and warden also made independent site visits. Suggestions were provided on how to upgrade raptor housings (mews) as preventative measures to protect against damage from large carnivores and to improve safety and welfare for the animals. These suggested improvements were implemented by the permit applicants.

Montana Environmental Policy Act (MEPA) Process and Public Involvement

FWP released a public notice posted on FWP website on August 10, 2021 of the environmental assessment (EA), mailed postcard notices of the EA's availability to the 6 adjacent landowners on August 18th 2021, and legal notices were placed in the Sanders County Ledger (August 18th, 2021), Helena Independent Record (August 22nd, 2021), and The Daily Inter Lake (August 22nd, 2021). The EA was 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:

Alternative A: No Action.

Under the No Action Alternative, FWP would not issue a roadside menagerie permit to the applicant. Impacts from adopting the No Action Alternative are unknown. It is uncertain whether the applicant would seek to upgrade the mew buildings or tear them down.

Alternative B: Proposed Action

Under the Proposed Action, FWP would issue the requested permit for a roadside menagerie to the applicant which would allow the applicant to keep 10 raptors (see Table 1.4.1) in custom built mews. This action would have few if any impacts to the human or physical environment.

Summary of Public Comment

FWP received 2 comment letters during the public comment period. All comments, in their original form, are included in Appendix A of this Decision Notice. The following is a summary of questions and issues raised by commenters and FWP's responses.

Comment Letter #1:

1. Concerns of the EA lacking descriptive information regarding the commercial operation that would be allowed if the roadside menagerie permit were to be granted and a lack of analysis regarding the impacts on the surrounding neighbors. Specific issues listed include
 - 1.1. What public activities will be taking place
 - 1.2. How many visitors are anticipated
 - 1.3. Size of visitor groups
 - 1.4. Whether school groups are expected
 - 1.5. Maximum size of vehicles
 - 1.6. Duration of visits
 - 1.7. Frequency of visits
 - 1.8. Limitations on commercial operation

1.9. Noise disturbances

FWP Response: The concerns listed above (1.1-1.9) are outside the scope of the EA, which pertains to subjects which are within either Department regulations (MCA 87-4-802) and/or statutory requirements for permitting (MCA 87-4-803) of roadside menageries. Department regulations adopted under MCA 87-4-802 are specific to the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries for the protection of the public from injury by those animals. As outlined in MCA 87-4-803-804, the permit may not be granted by the department until it has satisfactorily verified that the provisions for housing and caring for the animals and for protecting the public are proper and adequate and in accordance with the standards established by the department.

Application information for permits for a roadside menagerie as outlined in MCA 87-4-803(2)(a) and (2)(b) do not require specifics of a menagerie business model, such as those outlined above in comments 1.1-1.9. While FWP understands these concerns, they are general concerns related to the operation of a commercial business from a home and beyond the scope of the menagerie permit. The applicants' address for the proposed menagerie is in Sanders County, which currently has no adopted zoning for unincorporated areas (see Appendix B. Zoning letter from Sanders County Director of Land Services).

2. Concerns that the proposed commercial activities have commenced prior to authorization of the menagerie permit

FWP Response: The permit applicants have the required federal permits for their birds and have been working with FWP as part of the permitting process to ensure the housing facilities meet department recommendations for animal care and protection from predators. Commercial activities have not started.

3. Concerns of public attraction impacts to "privately maintained roads, both county and private." Specifically, the county road (Gray Wolf Lane) is an unmaintained county road used only by 8 residents who have assumed responsibility for repairs and snow removal under a good neighbor honor system of shared responsibilities and costs. Additionally, the private road (Davis Lane) is prone to potholes and ruts with increased traffic due to its slope.

FWP Response: As outlined in the response to comment #1 above, Department regulations adopted under MCA 87-4-802 are specific to the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries for the protection of the public from injury by those animals. Impacts to the county road are outside the scope of the EA. The applicant address for the proposed menagerie is in Sanders County, which currently has no adopted zoning for unincorporated areas (see Appendix B). However, the applicants own heavy equipment and are committed to being part of the good neighbor honor system of shared road responsibilities and costs. The applicants have already contributed financially to the road maintenance (with surrounding landowners) that took place during 2021 and plan to continue to contribute to this 'good neighbor' honor system. The applicants plan to have appointment-only visitation which would typically be a single vehicle. Finally,

the applicants do not plan on having visitors during the winter months when roads may be difficult to drive on due to ice and snow.

4. Concerns of a lack of adequate public outreach regarding this proposal

FWP Response: FWP released a public notice posted on FWP website on August 10, 2021 of the environmental assessment (EA), mailed postcard notices of the EA's availability to the 6 adjacent landowners on August 18th 2021, and legal notices were placed in the Sanders County Ledger (August 18th, 2021), Helena Independent Record (August 22nd, 2021), and The Daily Inter Lake (August 22nd, 2021). The EA was 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.

5. Concerns that this roadside menagerie proposal has a negative impact on the human environment

FWP Response: Department regulations adopted under MCA 87-4-802 are specific to the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries for the protection of the public from injury by those animals. The applicants have taken several steps to ensure that these requirements are met.

Comment Letter #2

1. Added traffic on gravel roads. Specific issues listed include:
 - 1.1. Inability to oil treat their log home
 - 1.2. Inability to hang laundry
 - 1.3. Increased allergy issues
 - 1.4. Request that permit applicants be a major part of providing dust abatement on Gray wolf Lane and Davis Lane

FWP Response: Department regulations adopted under MCA 87-4-802 are specific to the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries for the protection of the public from injury by those animals. Impacts to the county road are outside the scope of the EA and the applicant address for the proposed menagerie is in Sanders County, which currently has no adopted zoning for unincorporated areas (see Appendix B). However, the applicants own heavy equipment and are committed to being part of the good neighbor honor system of shared road responsibilities and costs. The applicants have already contributed financially to the road maintenance (with surrounding landowners) that took place during 2021 and are committed to continuing this effort. Finally, the applicants do not plan on having visitors during the winter months when roads may be difficult to drive on due to ice and snow.

2. Concerns about falconry activities and birds to small pets and animals.

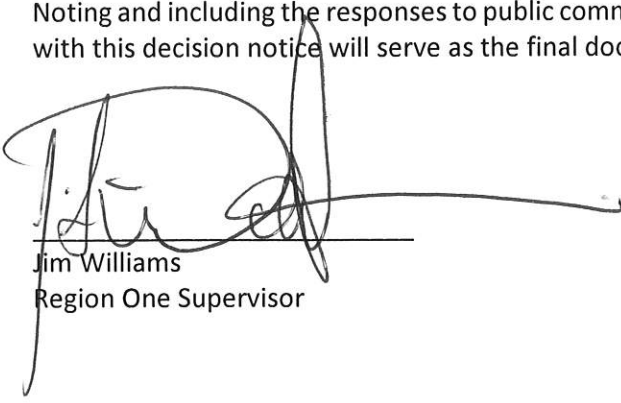
FWP Response: Any flight activities outside would involve the birds flying from one person's hand to another's so that people can see the birds in flight. No Falconry activities would take place on the 8 Davis lane property.

FWP Recommended Alternative and Final Decision

In reviewing the public comment and other relevant information, and evaluating the environmental effects, I recommend that the Montana Fish and Wildlife Commission approve the application for a Roadside Menagerie Permit as proposed in Alternative B, the Proposed Action.

Through the public review process described above, the public raised some issues/concerns with the proposed menagerie permit and these have been addressed in this decision document.

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
Region One Supervisor

11/8/01
Date

Appendix A: Comment Letters

Letter 1:

Jeff and Laura King
63 Davis Lane
Noxon, Montana 59853
September 8, 2021

Mike Ebinger
Fish, Wildlife & Parks
5427 MT-200
Thompson Falls, MT 59873

Dear Mr. Ebinger,

Our names are Jeff and Laura King and we live at 63 Davis Lane in Noxon, Montana. We decided to combine our remarks in response to your request for comments on the environmental assessment (EA), evaluating the proposed commercial operation of a roadside menagerie at 8 Davis Lane. This application was made by our new neighbors, Paul and Anne Schnell, who are proposing to house 11 raptors at their home site to serve as a public attraction for a new commercial operation in our community. Their home and ours are located along a private road (Davis Lane) which we share with them and two other home owners. We drive past their driveway to access our home at the end of Davis Lane.

According to the EA, the proposed menagerie will be in the Schnell's yard and, although there are no details in the EA about the public aspects of this operation, it is obvious that the Schnell's are proposing a new commercial business designed to attract the public to our small end of the road community.

According to Montana Code 87-4-801, a roadside menagerie is defined as:

(1) "Roadside menagerie" means any place where one or more wild animals, including birds, reptiles, and the like, are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

Other than the one example in the description of project heading, "live eagle exhibition", the EA is completely lacking any description of what exactly the proposal is for exhibitions or attracting trade on the Schnell's property. This lack of information in what appears to be a proposed public attraction, even by invitation only is very concerning and leaves us with many unanswered questions.

Reading between the lines of the EA, it appears that the Schnell's are proposing to start a new commercial operation on their property and invite the public come and participate in organized events or view raptor displays. If this is the case, we saw no analysis of the impacts of this commercial operation on the surrounding neighbors and our shared, privately maintained road system. There is no information on what public activities will be taking place, how many visitors are anticipated, size of groups, including whether school groups are expected, maximum size vehicles that will be traveling these privately maintained roads, duration and frequency of visits, and any limitations on this

commercial operation. We did not see any consideration given in the analysis to noise disturbances to surrounding neighbors from the public attending these activities or the noise associated with the captive birds themselves. Also, based on the pictures provided in this proposal, it already appears that the Schnell's have assumed they will be receiving this permit for their proposed commercial operation and that this EA is simply a formality. This EA is proof that this operation required public notification and input before operations could be authorized and yet the construction appears to be completed and operations have commenced.

One serious concern of opening this public attraction is the impact to our privately maintained roads, both county and private. Both Gray Wolf and Davis Lane are completely inappropriate for public access. Davis Lane, where the Schnell's are located, is a dead end single lane private road that can only be accessed by the 4 residents that live on this road. Gray Wolf Lane, which is the connecting road to Davis, is an unmaintained single lane county road used only by the 8 residents who live in the various end of the road properties. Gray Wolf Lane is steep and rough and requires constant maintenance, even with current traffic levels. It can be treacherous in the winter when it gets covered with ice and snow; particularly given its abrupt embankment. Those of us with heavy equipment have assumed responsibility for repairs and all snow removal on these roads, but despite our best efforts; many vehicles without 4 wheel drive find it difficult to climb this road in the winter without sliding. Almost all of us have been in the ditch at one time or another.

Both of these roads are fully maintained at the cost and efforts of the residents that live here. Just recently we spent over \$3,000 to re-gravel the upper end of Gray Wolf Lane. This is all done by the homeowners under a good neighbor honor system of shared responsibilities and costs. We have witnessed the impacts of increased traffic during short duration projects, such as neighbors building structures or improving access to their properties. Due to its slope, Gray Wolf Lane is prone to getting potholes and ruts with increased traffic. This not only makes travel more treacherous and hard on our vehicles, but increases maintenance costs.

We do not feel there has been adequate public outreach regarding this proposal. We were only aware of this EA after some of the other neighbors received some type of notice or discovered it on their own. At a minimum, we feel any property owners who live along Gray Wolf and Davis Lane should have been notified by both the state and frankly, the Schnell's.

Regardless of the shortcomings of this process and analysis, we feel this proposal is wholly inappropriate in this area given the lack of safe and adequate public access, increase noise disturbance to neighbors, and increased impacts and costs to maintaining community roads. We believe this action would have a negative impact on the human environment and do not believe this proposal should be authorized by the state.

Thank you for your consideration of our comments. If you need further information or clarification, please feel free to contact us by replying to this email.

Comment letter #2

Bonita Reishus
14 Country Rd
PO Box 123
Noxon, MT 59853

Mike Ebinger
Fish, Wildlife and Parks
5427 MT-200
Thompson Falls, MT 59873

Dear Mr. Ebinger:

This letter is part of the public response to the application for a Roadside Menagerie Permit to house raptors in the Noxon area for Paul and Anne Schnell. I live relatively close to the Schnells and have a few concerns. After a summer of drought, heat, and wind along with an influx of new people developing lots in this immediate area near the Noxon Cemetery, I have seen that the dust on our roads has become a problem. Just to name a few of the issues: I have not been able to log oil my house, hang laundry on the line, and at times, it has added to my allergy issues. It has taken away from the joy of being outside. A business such as this will bring in added traffic on our gravel roads. I believe the owners of this business should provide, or at least be a major part of providing dust abatement on this gravel road that starts at Pilgrim Creek Road and leads to their home/business.

I do not know if the Schnells are falconers or ever release their birds to fly. If they do, I, along with other neighbors are concerned about our small pets and animals. Most of us have cats who spend time outdoors and some of us have small dogs, newborn livestock, etc. We realize there are natural predators, but we do not want any unnecessary added danger to our animals.

Thank you for your time and consideration.

Sincerely,

Bonita Reishus

Appendix B:



Sanders County Land Service Department

October 1, 2021

Mike Ebinger
Thompson Falls Area Wildlife Biologist
Montana Fish Wildlife & Parks Region 1
5427 MT Hwy 200
Thompson Falls, MT 59873

Mike,

This document serves as notice that currently there is no adopted zoning for the unincorporated areas in Sanders County.

Sincerely,

A handwritten signature in blue ink, reading "Katherine F. Maudrone".

Katherine F Maudrone CFM
County Planner/Director Land Services