

## Appendix A

### Draft Stuart Mill Bay Land Sale EA Summary of Public Comments and FWP Responses

#### I. Concerns over procedural processes.

**Comment A:** *Public Participation and notification of project was insufficient, particularly in regard to the public field tour held on site on September 2, 2021*

**Agency Response A:** We try very hard to keep our stakeholders informed of upcoming public participation processes, meetings, tours, decisions, etc. If we fell short of expectations on this project we apologize and seek to do better in the future.

*Comment A. What was the urgency of this project moving forward? It seems like other projects take years to move through the system but this one has been rushed, despite intense opposition.*

**Agency response.** We disagree that this project was rushed through the system. We have been approached by adjacent landowners regarding this parcel since 2014 but had not been able to land on a potentially workable solution until now. We had been in conversation about the newest proposal for several months prior to the release of the draft EA, and the 30-day public comment period associated with this project is standard.

**Comment B:** *I would have liked to have seen representation of regional wildlife professionals at the field tour on September 2, as the proposed project has the potential to impact wildlife movement and hunting access.*

**Agency Response B:** FWP area wildlife biologists were consulted about the project and concluded that the acreage proposed for sale was small and was mostly comprised of roadway or highly disturbed habitat and therefore was unlikely to negatively impact any animal species. Wildlife would still be able to move across the parcel as before with an easement in place.

**Comment C:** *I am unaware of any public support for the proposed project, particularly from the agency (Natural Resource Damage Program) whose funds were used to purchase these lands.*

**Agency Response C:** While it is important to note that the public participation process is not a vote, the majority of commenters supported the proposed sale. However, concerns raised by the public throughout this process plus the information provided by the new survey prompted us to propose issuing an easement instead of a sale. We are hopeful that will alleviate most of the concerns held by those opposed to the project. FWP consulted with

the NRDP about the request from the private landowner for access. Representatives of the NRDP were supportive of the process FWP took to address the request.

**Comment D:** Why didn't FWP take any action when the landowner removed the boulders that FWP had placed across the contested access point?

**Comment E:** Why was the landowner allowed to make improvements to the public road?

Agency Response D and E: FWP had placed boulders adjacent to the County Road Right of Way (ROW), affectively blocking the public from traveling too far down the road portion. FWP has not determined the landowner removed the boulders. During the field tour, it did appear that some gravel had been placed on the County Road ROW and approach. Some small amount of gravel was spread beyond the County ROW to the small portion of the FWP property the road portion crosses before the private land boundary. Although the Department would typically require permission and approval of any improvements, the impact was minimal.

## **II. Concerns over the sale of public land and possible precedent setting of such a sale.**

**Comment A:** *We oppose any sale of public land no matter how small.*

**Comment B:** *We have grave concerns that the seemingly negligible sale of a 0.09-acre parcel of land will lead to the sale of 2 acres, then 10 acres, etc.*

**Comment C:** *I am opposed to Fish and Game selling public property to private landowners for any reason. The sale of public lands, no matter the size of the property, seems like a dangerous precedent.*

**Agency Response A, B, and C:** We understand the sensitivity surrounding the issue of the sale of public lands and generally it is rare that we do. However, there are times when it makes sense to sell FWP property and the agency is authorized to do so as outlined here: Section 87-1-209(3)(a) of the Montana Code Annotated (MCA) states (in part), "*the department, with the consent of the commission . . . , may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.*"

In this situation however, we have decided not to proceed with the proposed sale and instead will issue an easement, which is authorized by Section 87-1-209(4) MCA.

**Comment D:** *The price of the proposed sale seems too low. Why would the price be discounted just because it is a small parcel? It smells like an insider deal.*

**Agency Response D:** We can assure the public that the proposed project was not in any way an insider deal. Our experienced staff in our Lands Unit arrived at that price independently and were satisfied that was a fair price. This issue is now moot as FWP has decided to grant an easement instead of selling the parcel. The easement only occupies 255 sq. ft. of FWP land and is valued at \$395.25.

**Comment E:** *We support the sale as the proceeds could be used to benefit Stuart Mill Bay FAS, such as improving the campground.*

**Agency Response E:** FWP consulted with representatives of the Natural Resource Damage Program about the potential proceeds from either a sale or the granting of an easement. In this case, any proceeds would be returned to the Natural Resource Damage Program. While there is not an established mechanism for the use of those funds, the use of those proceeds to address future operations and maintenance at Stuart Mill Bay FAS is possible. However, the fact that FWP has decided to issue an easement for under \$400 the value of having those funds available for enhancing the FAS is negligible.

### **III. Public Parking, Access, and Safety Issues**

**Comment A:** *The current parking area provided by this road segment is essential for public access to this portion of the FAS. The area a half-mile down the road that FWP suggested could be a substitute parking area is not an acceptable trade.*

**Comment B:** *I don't see any legitimate impact on public access because it is a very small amount of land with an existing driveway on it that leads only to Bowman Camp. There is a 90-acre campground with ample public parking and facilities to accommodate sustainable use for generations to come.*

**Agency Response A and B:** Further review of the site and the updated survey show that a ROW can be accommodated as well as public parking at that area. In light of that, we will grant an easement to the adjacent landowner instead of selling that parcel and the public will still be able to park in that location as before.

**Comment C:** *I have visited the property and believe it would improve ingress and egress to everyone's benefit with no negative consequences. In addition, while the amount of money is not huge, it would benefit the Stuart Mill Bay facilities, which I encourage as a hunter and fisherman. Generally, I think it is the "right" thing to do.*

**Comment D:** *This area is not large enough to be used for parking. FWP should sell this parcel and use the funds to create better parking/access elsewhere in the immediate vicinity.*

**Comment E:** *The current public parking area is near a swampy spot and of little value to the public. This small tract would only be useful as a driveway and should be sold to the adjacent landowner.*

**Agency Response C, D, and E:** The proceeds from either a sale or the granting of an easement would be returned to the Natural Resource Damage Program, where they could potentially be used to assist in maintenance of Stuart Mill Bay. Additionally, there are no other areas that are currently being considered for parking development or improvements.

**Comment F:** *It just makes sense to sell this parcel to Mr. Neely as it will not affect public use or the recreational or habitat values of the larger FAS.*

**Agency Response F:** After further evaluation, it was determined that issuing an easement will provide the same benefits to Mr. Neely and even fewer negative impacts as a sale.

**Comment G:** *The current entrance to Mr. Neely's property is located on a blind corner and is dangerous for people exiting his property and for drivers on the county road. Allowing Mr. Neely the opportunity to use the western access point would increase public safety.*

**Comment H:** *The Bowman Camp Property is a historic place that is going through many updates, requiring heavy equipment and semi-trucks enter the property. The driveway in question is the only access point to the property that doesn't require semis to conduct a two-point turn. This holds up traffic and creates a safety hazard at the other access points.*

**Comment I:** *From a public use perspective, allowing Mr. Neeley to access his property with this historic driveway would make that dangerous stretch of the Georgetown Lake Road much safer.*

**Comment J:** *I support the sale of Stuart Mill Bay corner by the Bowman Camp. I started a plow business in 2016 and Stuart Mill Bay is really hard to maneuver around with all the snow. It would be easier to sell and let the property owner take care of that corner than to have you guys come and clean it because it has been a nuisance for many years. The corner is just a roadway, and no one should park there to look at the scenery because it's so dangerous.*

**Agency Response G, H, I and J:** Improving public safety along this stretch of the county road was one of the secondary goals of this project. Granting an easement to Mr. Neely and allowing ingress and egress at this location is expected to improve public safety on this stretch of Georgetown Lake Road.

**Comment K:** *Given its historic use as a driveway, the landowner likely has a prescriptive right. Any alternative use would likely interfere with that right.*

**Comment L:** *This property was owned by my grandparents and parents before me, and neither they nor I, as the previous landowners, ever abandoned this driveway. FWP has made other boundary sales and adjustments in the Stewart Mill Bay area in similar situations where use preceded FWP's purchase of adjoining land. Also, older surveys sometimes do not reflect what is actually on the ground.*

**Comment M:** *I hope FWP weighs the historic nature of this road, public safety, and the lack of impact it has on the agency's mission at Stuart Mill Bay. Selling this sliver of land to Mr. Neely would respect private property rights without causing harm to FWP.*

**Comment N:** *Since this driveway has been in use for many decades, its continued use would have no biological, environmental, or cultural impacts.*

**Agency Response K, L, M and N:** The decision alternative of granting an easement ensures continued access for the adjacent landowner while still retaining ownership. The adjacent landowner is satisfied with this outcome.

#### **IV. Impacts to wildlife**

**Comment A:** *It is important to acknowledge that this tiny parcel does not enhance the Stuart Mill Bay FAS or impact the surround wildlife protection area.*

**Comment B:** *The driveway under discussion has been in use for decades so maintaining the status quo will not impact the area's continued use by wildlife as a corridor between the mountains and lake. 0.09 acres is insignificant relative to the 363-acre FAS.*

**Comment C:** *I don't see any way this sale will impact public access because the WMA remains accessible from Georgetown Lake Road as well as the adjoining US Forest Service land.*

**Agency Response A, B, C:** Issuing an easement across this parcel will provide the same benefits to the adjacent landowner as a sale but will alleviate concerns from some stakeholders about potential impacts to the public and wildlife.

**Comment D:** *The Neeley property has erected ten-foot fencing that prevents wildlife from using that portion of this historic natural corridor. The portion of the FWP property has a steep hillside that makes wildlife movement difficult and dangerous as any wildlife coming off this hillside is forced to run into a blind curve on the adjoining highway. The safest place for wildlife to traverse requires access through this narrow strip of land.*

**Agency Response D:** FWP believes localized wildlife movement will be minimally impacted by the decision to issue an easement across this parcel instead of an outright sale.

#### **V. Impacts/Benefits to the land**

**Comment A:** *The eastern side of the property contains several structures along with additional facilities for my property and is divided by Stuart Mill Spring and its associated stream and riparian areas. The access road in question would enable visitors and guests to access the property from the east without requiring us to cross the stream and riparian area.*

**Agency Response A:** The proposed Action Alternative of issuing an easement will allow the landowner to access the property from the east and thus avoid driving across wet and riparian features.