



January 31, 2022

Dear Interested Citizen:

Thank you for your thoughtful review and comments on the draft EA examining our proposal to sell a small parcel (0.09 acres) of Stuart Mill Bay Fishing Access Site to a neighboring landowner.

As stated in the draft EA, a neighboring landowner (Bowman J. Neely Revocable Trust; hereafter, Bowman Neely, purchaser, or adjacent landowner) requested that FWP sell a very small parcel (0.09 acres) of land along Georgetown Lake Road that would include a section of roadway/driveway that has at times been used for access to their property. Since FWP's purchase of the parcel in 2003, that roadway/driveway has primarily been used for day-use parking by the public and occasionally by the adjacent landowner for access to the property. As far back as 2014, previous adjacent landowners have sought to acquire an easement or otherwise gain legal access to their property at this location. Seeking to formalize use, the current landowner approached FWP in 2021 to purchase the parcel outright. After again examining the request, FWP released a draft EA in August 2021 proposing to sell that parcel to Bowman Neeley for \$6,053.

Based on public comment and continued discussion among agency staff, FWP has decided to grant an easement to Bowman Neeley in exchange for a payment of reasonable market value (estimated to be \$395) in lieu of the proposed fee title purchase. Enclosed you will find a Decision Notice that describes this decision in detail, as well as agency responses to public comment. Upon completion of this public involvement process, FWP accepts the draft Environmental Assessment (EA) as final. The decision notice includes all comments received on the proposed action during the public comment period.

Please feel free to contact me at (406) 542-5500 with any questions you may have. Thank you for your interest and participation.

/s/ Randy Arnold

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Decision Notice for
Stuart Mill Bay Fishing Access Site Proposed Sale of 0.09-acre portion
Draft Environmental Assessment
January 31, 2021

INTRODUCTION

This Decision Notice follows a draft Environmental Assessment (EA) prepared for the proposed sale of a 0.09-acre portion of Stuart Mill Bay Fishing Access Site to a neighboring landowner (Bowman Neeley). This project was proposed by Montana Fish, Wildlife & Parks (FWP) after being approached by the landowner as a means of resolving questions about use of a short length of road (78ft) that is part of the FAS and therefore owned by FWP but connects to a driveway owned by the landowner and used at times for access to that property. The landowner has other access points to his property but believes that this driveway offers the best route into the eastern side of his property as it avoids several wet areas and is also the safest to use in terms of sight distances for drivers entering or exiting the county road. Because of the small size of the parcel, historic use of the parcel by previous landowners, and absence of significant negative impacts to the human and physical environment by the proposed sale, FWP advanced the proposal and put out a draft EA for the project in August 2021.

Goals of the proposed sale included: (1) being a good neighbor and working in good faith to resolve a perceived issue with this parcel, (2) keeping negative impacts to the resource and public to a minimum, and (3) maintain or improve public safety for all users of this portion of Georgetown Lake Road.

The two alternatives considered and presented in the draft EA were:

Alternative A: No Action

Under the No Action Alternative A, FWP would not sell a 0.09-acre parcel of land in Stuart Mill Bay FAS to the adjacent landowner (Bowman J. Neely Revocable Trust). The land and road portion on the parcel would remain in FWP ownership and continue to be available to the public for limited parking and minimal functional recreation.

Alternative B: Sell (in fee title) a 0.09-acre parcel of SMB FAS to the adjacent landowner (Proposed Action)

Under the Proposed Action, FWP would sell a 0.09-acre parcel of land in Stuart Mill Bay FAS to the adjacent landowner (Bowman J. Neely Revocable Trust). The FWP parcel includes an existing roadway linking Georgetown Lake Road (a county road) and the purchaser's property, and the purpose of the sale would be to (potentially) provide additional access for the purchaser to his property along Georgetown Lake Road. (Granting an encroachment permit to use a road coming off a county road to connect to a landowner's property is the purview of Granite County and beyond the scope of this proposal.)

Alternative considered but eliminated from further analysis: Grant a right-of-way easement on the 0.09-acre parcel to the adjacent landowner

Under the right-of-way (ROW) alternative, FWP would grant the adjacent landowner a ROW easement (including for vehicular travel) along the 0.09-acre parcel for their use as (additional) access to the private property. For the ROW alternative to function, the roadway would likely need to be kept clear of obstruction—including parked vehicles—which would preclude allowing the public to park along the existing road portion. The portion of the parcel unencumbered by roadway is minimal and not expected to provide practical recreational use for the public. Thus, granting a ROW easement would be expected to effectively discontinue public parking and use of the parcel, which would have a similar effect as selling the parcel in fee title.

New information

However, after release of the EA, FWP was made aware of an updated survey (completed in 2021) that expanded the range of possible alternatives to the issue. The new survey showed that the portion of the parcel unencumbered by roadway was larger than previously understood. An on-site visit and review of the updated survey revealed it was possible to grant the adjacent landowner an easement for vehicular access to his property while maintaining a similar amount of county road right-of-way open to public parking in that location as before.

After extensive review of public comments, applicable state and federal laws, and further discussion among agency professionals, FWP have reached the following decision:

PROPOSED ACTION ALTERNATIVE

FWP's decision is to grant a permanent easement, or ROW, to the adjacent landowner, in exchange for a payment of reasonable market value (estimated to be \$395). This decision will best satisfy the stated goals of the proposal with the fewest negative impacts. Granting an easement to the adjacent landowner will protect the interests of the public and wildlife resources in the area, while still improving public safety and allowing FWP to act as a good neighbor in resolving this issue.

Public comments and agency responses to the comments can be found in Appendices A&B

PUBLIC REVIEW PROCESS

FWP released a Draft EA for public review of the proposed sale of the Stuart Mill Bay parcel on Project on August 31, 2021 and accepted public comment until September 30, 2021, for a 30-day comment period.

Legal notice of the proposal and availability of the Draft EA was published twice each in the following newspapers: *Independent Record*, *Missoulian*, *Anaconda Leader*, and *Phillipsburg Mail*. FWP also emailed notifications of the EA's availability to adjacent landowners, interested individuals, groups and agencies. The EA was available for public review and comment on FWP's web site (<http://fwp.mt.gov/>, "Recent Public Notices" and "Submit Public Comments") from August 31 through September 30, 2021.

A public field tour at the site of the proposed project was held at Stuart Mill Bay FAS on September 2, 2021.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENT

FWP received a total of 70 comments, representing 65 individuals and 4 groups during the 30-day public comment period. (See Appendix A for a summary of issues raised by commenters and agency responses, and Appendix B for a compilation of all comments received during the public comment period.)

- The majority of commenters were in favor of the proposed action to sell the 0.09-acre parcel to Bowman Neeley.
- Several commenters who were opposed to an outright sale of the parcel to Mr. Neeley indicated they would support an easement instead.
- The 4 groups which commented were Montana Wildlife Federation, Skyline Sportsmen, Russell County Sportsman's Association, and the Anaconda Sportsmen's Club. These groups were opposed to the proposed sale.
- Comments covered a wide range of issues, including concerns of impacts to the public, impacts to wildlife, and the possible precedent-setting nature of the action.

DECISION

Based upon the Draft Environmental Assessment and the applicable laws, regulations, and policies, we have determined that the proposed action alternative will not have significant negative effects on the human and physical environments associated with this project. Therefore, we conclude that the EA is the appropriate level of analysis, and preparation of an Environmental Impact Statement is not warranted.

The proposed action alternative would satisfy most environmental and public use concerns, is supported legally, and is acceptable to the adjacent landowner. By notification of this Decision Notice, the draft EA is hereby made the final EA. The finding of a Proposed Action Alternative is the product of this Notice.