



**Wildlife Division  
1420 East Sixth Avenue  
Helena, MT 59602**

**DECISION NOTICE  
and  
Finding of No Significant Impact  
for  
Habitat Conservation Lease Agreements**

**August 12, 2022**

**Description of Proposed Project**

Montana Fish, Wildlife and Parks (FWP) is proposing development and implementation of Habitat Conservation Lease Agreements as part of the Habitat Montana program. The primary goal of habitat conservation lease agreements is to implement an expansive, long-term habitat conservation tool that effectively addresses habitat conversion and fragmentation threats for high priority wildlife habitats at a landscape scale, with the objective of leasing up to 500,000 acres for 30 or 40-year terms over the next five years in five focal habitats: sagebrush grasslands, mixed grasslands, intermountain grasslands, riparian/floodplain, and wetland-grassland complexes. The program would offer voluntary, incentive-based lease opportunities for private landowners. Lease agreements and associated payments are also expected to help support sustainable ranching operations.

Under the lease agreements, a participating landowner would commit to retaining habitats and avoiding land use changes that reduce or eliminate habitat values, such as tillage agriculture, building development, wetland draining, targeted herbicide treatments on native vegetation, or other forms of habitat fragmentation or conversion. The agreements would also include a provision for public hunting and/or recreation. FWP would offer both 30 and 40-year agreement options with a consistent per-acre payment formula.

The basic intent of the conservation lease program is to retain substantial blocks of high priority native or restored wildlife habitats. Through the enrollment process, the landowner would have the opportunity to identify areas to enroll and areas to exclude from enrollment, which would be depicted on a map as part of the lease agreement.

## Montana Environmental Policy Act (MEPA) Process and Public Involvement

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on 14 June 2022. Public comments on the proposed action were taken for 30 days (through July 13, 2022). The public was notified of the proposed action through the following avenues:

- FWP released a draft environmental assessment (EA) for public review on June 14, 2022 and asked for public comment through 5:00 p.m. on June 13, 2022.
- FWP ran legal ads describing the proposed project, the availability of the draft EA in the Helena Independent Record, Bozeman Daily Chronicle, Kalispell Daily Interlake, Missoulian, and Billings Gazette.
- Postcards providing notice of the availability of the EA were sent to 187 individuals and organizations on an interested parties list maintained by the Wildlife Division.
- Email notifications of the availability of the EA were sent to a broader interested persons list maintained by the Wildlife Division of more than 700 individuals and organizations.
- Public notice was posted on the Fish, Wildlife & Parks web page with the Draft EA and Frequently Asked Questions available and opportunity to submit comments online.

The EA evaluated the potential impacts of the following alternatives:

**Alternative A: No Action.** Under this alternative, FWP would not proceed further with a programmatic habitat conservation lease program. FWP would continue to administer Habitat Montana through fee title acquisitions, conservation easements, and habitat conservation leases on a case-by-case basis, subject to required analysis and approval processes.

**Alternative B: Proposed Action.** This alternative would set into motion further development and implementation of a programmatic habitat conservation leasing program with the objective of leasing up to 500,000 acres for 30 or 40-year terms over the next five years in five focal habitats: sagebrush grasslands, mixed grasslands, intermountain grasslands, riparian/floodplain, and wetland-grassland complexes.

## Summary of Public Comment

FWP received 13 public comments, nine from organizations and four from individuals. Several commentors expressed concern about the scope and scale of the proposal and potential impact to the current Habitat Montana program and recommended the department adopt the no action alternative. Some expressed support for the concept but also raised specific questions, and several didn't express an opinion but raised some concerns. 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.

## Response to Public Comments

**Issue:** Some commentors expressed concern that the proposal for Habitat Conservation Lease Agreements seems like a large change to FWP's habitat conservation program, that it is being rushed, and that a more thorough analysis is needed before proceeding.

**FWP Response:** FWP acknowledges the goals (timing and acres) for Habitat Conservation Lease Agreements are ambitious, but the analysis is sound. If assumptions made in the analysis of the Habitat Conservation Lease Agreements prove to be incorrect, FWP will adaptively manage and make adjustments in response and will initiate additional public input on those adjustments. And while the goals for the Habitat Conservation Lease Agreements are ambitious, the habitats proposed for inclusion are at risk, and a significant commitment is necessary to conserve them. Leasing is one tool to do so and has been used effectively by FWP in the recent past. In the early-2000s, FWP completed 30-year leases on over 200,000 acres of priority sagebrush habitat using a federal program called the Landowner Incentive Program. More recently, FWP has conserved an additional 128,000 acres of priority grassland habitat through its Grassland Initiative using Pittman-Robertson funding. To date, these leases have been successful at conserving important habitat, while maintaining working lands. As explained in the environmental analysis, working lands, primarily livestock ranches, can continue their current operation under a Habitat Conservation Lease Agreement. There is very minimal to no negative impact to the landowner or the local community for the duration of the lease, with positive benefit to wildlife and some public access for nature-based recreation. Other conservation tools utilized by FWP, including conservation easements and fee title acquisition, would still be available and used as well.

**Issue:** Several commentors expressed concern that the Habitat Conservation Lease program would take the place of perpetual conservation easements and fee title acquisitions, which have been the primary focus of FWP's Habitat Montana program.

**FWP Response:** Habitat Conservation Lease Agreements are an additional tool under the Habitat Montana program for conserving important wildlife habitat and are *in addition to* vs. *in place of* perpetual easements and acquisitions. Habitat Montana was created through HB526, passed by the 1987 legislature. That bill specifically authorized the Fish and Wildlife Commission "to secure wildlife habitat through lease or purchase of suitable land or the acquisition of conservation easement, thereon..." While FWP has traditionally focused on easements and acquisitions, leases are a viable tool that can result in protection of important wildlife habitat.

**Issue:** A commentor suggests this leasing program is an expensive temporary approach that likely won't change much on the ground and implored the department to maintain the use of Habitat Montana dollars for their intended purpose, and not implement this program.

**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 – 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 and may lead to permanent protection in the future.

**Issue:** Several commentors expressed concern about using most or all the Habitat Montana funding for Habitat Conservation Lease Agreements, thus precluding pursuit of permanent protections through conservation easements and acquisitions.

**FWP Response:** The Habitat Montana funding is a percentage of hunting license fees, as described in 87-1-242, MCA. This funding source generates approximately \$3.5 million per year available for acquisition, easement, or lease. 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. Therefore, if \$7 million is used each year for Habitat Conservation Lease Agreements, then approximately half of the annual allocation would be available/year for other types of habitat conservation projects. FWP has been able to leverage much of the Habitat Montana funding with other funding sources to secure habitat and expects to continue to do so in the future. P-R funding is derived from an excise tax on firearms and ammunition, and its recent revenue generation has been at record levels. So, P-R is intended to be the primary source of funding for at least the next five years for Habitat Conservation Lease Agreements.

**Issue:** A commentor felt that a 30 or 40-year lease – two generations at most--had limited value compared to acquisitions and perpetual conservation easements. They felt that there was a lost opportunity for permanent protection/public access by removing funding from successful conservation easement and fee programs while development pressure grows and access to private lands decreases.

**FWP Response:** Habitat Conservation Lease Agreements will potentially ease some of the development pressure while providing public access for the duration of the lease. Conservation easements and fee title acquisitions will still be available and applicable in different circumstances where those are the best conservation tool. In some cases, a landowner who is not interested in a perpetual conservation easement will be supportive of a 30-year conservation lease. In these instances, Habitat Conservation Lease Agreements will bridge a gap between no conservation and perpetual conservation. They will enable landowners and the department to develop relationships that may lead to future permanent conservation.

**Issue:** Habitat leasing should not be a replacement of tools historically used – conservation easements and fee simple acquisitions, but, instead, an additional conservation tool that can be used if conservation easements or fee acquisition are not appropriate or possible for a given area or habitat goal.

**FWP Response:** FWP agrees. See responses above. Habitat leasing is intended to be an additional conservation tool complementing conservation easements and fee title acquisitions. Habitat Conservation Lease Agreements are focused on specific habitat types and offer an alternative to landowners within those habitats who have an interest in conservation but might not want to make a perpetual commitment. Ultimately, each landowner needs to determine what works best for their circumstance.

**Issue:** A commentor expressed concern that the new proposed program is slated to consume most of the Habitat Montana dollars available. That is a significant policy shift that warrants more analysis. This new shift of those financial resources is not well vetted or laid out in terms of accountability for the dollars.

**FWP Response:** See above. The lease program will utilize a portion of the available Habitat Montana dollars to be used as match for P-R dollars. Habitat leases are an authorized use of Habitat Montana dollars authorized by the Legislature. Conservation easements and acquisitions are still available tools with the remaining portion of Habitat Montana funds.

**Issue:** A commenter expressed concern about directing the bulk of Habitat Montana toward leases and the inability of landowners to secure a conservation easement.

**FWP Response:** Habitat Conservation Leases will be a component of the Habitat Montana program. The lease program does not preclude conservation easements but does offer an alternative to landowners who aren't willing to commit to a perpetual easement. For landowners interested in a perpetual easement, FWP would still consider that, but only for properties that have high habitat values, strong local support, and meet other FWP criteria including public access. Landowners may work with other entities that purchase and hold conservation easements as well.

**Issue:** One commentator expressed concern about abandoning the multi-species focus of Habitat Montana which would result in the loss of big-game winter range, fragmentation of migration corridors, and lost opportunities to conserve landscape-scale habitats.

**FWP Response:** The commentator's statement that FWP is abandoning the multi-species focus of Habitat Montana is incorrect. Habitat Montana has always been focused on conservation of priority habitats vs. species. The priority habitats of the Habitat Conservation Lease Agreements proposal all support diverse fish and wildlife assemblages, that include both game species and species of greatest conservation need. The habitats identified in the Habitat Conservation Lease Agreements proposal have been the focus of the Habitat Montana program since adoption of a Statewide Habitat Plan in 1996. HB 526, passed by the 1987 legislature and the origin of Habitat Montana, included a statement of intent that the funds were for conservation of "important habitats that are seriously threatened." The scale of the proposed program (500,000 acres) and the focus on specific priority habitats does enable and encourages landscape scale conservation, including important habitat for game and nongame. Intermountain grassland habitat, one of the priority habitats for Habitat Conservation Lease Agreements, is critical for maintaining connectivity between summer range and winter range for multiple species including deer, elk, and other ungulates. Priority sagebrush grasslands, wetland complexes, riparian floodplain, and mixed grassland prairie round out the priority habitats for Habitat Conservation Lease Agreements capturing a broad mix of habitat and wildlife diversity. Additionally, Habitat Montana funds remain available for conservation of other priority habitats, they just wouldn't be considered under this proposal for Habitat Conservation Lease Agreements.

**Issue:** A commentator noted that conservation of many of the priority habitats undoubtedly stands to have a demonstrated benefit for native and wild fish, but the lack of reference to the importance of Habitat Conservation Lease Agreements for fish seems to be an oversight in the analysis and that Habitat Montana has historically been keen to think about the terrestrial-aquatic habitat interface and the demonstrated values of mutually beneficial conservation.

**FWP Response:** Two of the priority habitats are aquatic – wetland and riparian/floodplain. These have been and will continue to be priorities for conservation given their importance to fish and wildlife, game and nongame. Habitat Conservation Lease Agreements will provide another tool for conservation of these important habitats and hopefully will result in significantly more conservation of these habitats. In addition, conservation of healthy upland habitat contributes to healthy waterbodies if only by limiting the amount of sediment delivered via snow or rain run-off events. FWP will work to ensure fish and fish habitat are beneficiaries of Habitat Conservation Lease agreements.

**Issue:** A commentor expressed concern that from their perspective, this proposal has taken an important tool in cold water fisheries conservation, Habitat Montana, and diverted nearly all of the funding for that successful program that has a multispecies benefit to one that does not even mention or consider fish as a beneficiary.

**FWP Response:** The failure to note fish as a beneficiary of Habitat Conservation Lease Agreements is a presentation oversight on the part of FWP. Riparian and wetland habitats are extremely important to a large proportion of Montana’s terrestrial and aquatic species, including fish, and are disproportionately used relative to their availability. Because of this, these habitat types have always been a priority of Habitat Montana and will continue to be. As noted above, because wetland and riparian habitats have been identified as priority habitats for conservation leases, there should be significant conservation benefit to both fish and wildlife. Additionally, there are real ecological connections between aquatic and other native upland habitats.

**Issue:** Commentors were concerned about the status of easement and acquisition projects already “in the pipeline” and that funding would be diverted from those projects to Habitat Conservation Lease Agreements. They expressed concern that because there is no discussion offered for these impacts, they are left wondering what will happen with those conservation easement and acquisition projects and advocated for more analysis and discussion.

**FWP Response:** FWP is continuing to work on conservation easement and fee title acquisition projects already underway and has solicited new projects from staff for consideration. This includes easement proposals on more than 150,000 acres of corporate timberland in northwest Montana, easements on important elk habitat in the Bitterroot, acquisition of big game winter range adjoining Mt. Haggin WMA, and acquisition of a new Wildlife Management Area in the Big Snowy Mountains. These would be funded with a variety of funding sources matched with Habitat Montana, including Forest Legacy, P-R, Fish and Wildlife Conservation Trust, and funding from other sources. FWP is committed to continuing to finalize those, recognizing there are many steps and approvals that must be completed.

It is important to recognize that authority to spend earmarked Habitat Montana funds must be provided by the Legislature, that all acquisitions of interest in land must be approved by the Fish and Wildlife Commission, and if the value of interest exceeds \$1 million in state funds, they must also be approved by the Land Board. So even projects that are in the pipeline must be approved at a number of levels, and local support is a critical component for successful conclusion of any project. Additionally, the time to complete an easement from start to finish is generally about two years, and for an acquisition up to one year. It is expected a habitat conservation lease will take less than 6 months because most of the stipulations and costs are fixed, so much less negotiation and analysis will be required. Therefore, leases can be completed while traditional easements and acquisitions are being worked on.

**Issue:** A commentor expressed concern that it is unacceptable to take money from Habitat Montana and spend it in a way that won't last and likely won't make a significant enough impact for Montana's landowners to gain much traction.

**FWP Response:** The lease program is voluntary, and it will be up to the landowner to determine if the return is viable with their business plan. For at least 30 or 40 years, these leases will conserve important habitats that are in peril, will help maintain working lands, and will help establish a relationship between the landowner and FWP that may lead to more permanent conservation measures in the future.

**Issue:** One commenter asserted that the scale, speed, and implications of this program are beyond the scope of an EA and recommended the agency pursue a programmatic Environmental Impact Statement to fully analyze the proposal.

**FWP Response:** While the scale of proposed Habitat Conservation Lease Agreements is relatively large, the impact on the human environment is minimal, and the implications are positive. As such, an Environmental Impact Statement is not warranted. As stated above, the leasing of important priority habitats will result in positive conservation for a number of imperiled habitats and species and will not preclude continuing to pursue conservation easements and fee title acquisitions that have local support and approval of the Commission and, if they meet certain criteria, the Land Board.

**Issue:** Some commentors noted that Habitat Conservation Lease Agreements seek to use Habitat Montana and P-R funding to improve sage-grouse habitats in order to help conserve the species and suggest the agency use other tools such as the Upland Game Bird Habitat Enhancement Program, the Wildlife Habitat Improvement Program.

**FWP Response:** Conservation of sagebrush habitat is a high priority for Habitat Conservation Lease Agreements with the intent of preventing conversion of that habitat. Other FWP programs such as the Upland Game Bird Enhancement Program or the Wildlife Habitat Improvement Program are and will remain available to landowners to make improvements to habitat that will benefit sage-grouse and other sagebrush obligate species. Habitat Conservation Lease Agreements will keep the habitat intact whereas other habitat enhancement programs can then be applied to make the habitats better for wildlife. Habitat Conservation Lease Agreements also enable leasing of property that has been converted but is being converted back to native habitat. Those other programs could assist a landowner with converting habitat back to a native condition.

**Issue:** Some commentors noted that the Montana Sage-Grouse Conservation Program is already in place to conserve sagebrush habitat, and that Habitat Conservation Lease Agreements will be replacing the use of general tax dollars contributed to the Montana Sage-Grouse Conservation Program with the lower value short-term leases.

**FWP Response:** The habitat conservation efforts undertaken by the Montana Sage-Grouse Conservation Program typically are accomplished to offset or mitigate for impacts to sage-grouse habitat. Leases of sagebrush habitat through Habitat Conservation Lease Agreements are intended to add to the conservation of sagebrush habitat, resulting in a net conservation gain, rather than offsetting other impacts (which is the role of the Montana Sage-Grouse Conservation Program). Across its range, sage-

grouse populations and their habitats are under various risk levels, so the potential conservation gains realized by long term leases of sage-grouse habitat are needed. The success of Habitat Conservation Lease Agreements may be an important factor for determining the future status of sage-grouse. In their 2015 assessment of whether sage-grouse should be listed under the federal Endangered Species Act (ESA), the U.S. Fish and Wildlife Service noted sagebrush conservation leases completed by FWP as one of the contributing factors to not list sage-grouse under the ESA.

**Issue:** One commentor recommended sage-grouse mitigation requirements be a condition of Habitat Conservation Lease Agreements.

**FWP Response:** The Montana Sage-Grouse Conservation Program and the program mitigation requirements are centered around disturbance of sage-grouse habitat and mitigation for the disturbance. That program requires impacts be minimized and mitigated. Habitat Conservation Lease Agreement requirements would prohibit ground disturbance with few exceptions, so there should be no additional mitigation requirements. If there was a project on leased lands that resulted in ground disturbance and required a state permit, the landowner would be required to comply with the mitigation requirements of the Sage-Grouse Conservation Program. Because of the no disturbance provisions of the lease agreement, additional mitigation requirements are not necessary.

**Issue:** A commentor questioned how does this program tie into the Montana Sage-Grouse Conservation Program? This too has a conservation easement program within it with an ultimate goal of keeping sage-grouse habitat intact to help the species survive. For the FWP program, the EA states that, “core sage-grouse areas are considered the highest conservation priority” (Figure 1, page 4). It is important that our state government programs work together to get the most out of it for the citizens of Montana.

**FWP Response:** See response above. Habitat Conservation Lease Agreements would conserve sagebrush habitat and would be additive to other conservation efforts and mitigation efforts of the Montana Sage-Grouse Conservation Program. Landowners enrolled in the FWP program could also work with the Sage-Grouse Oversight Team on habitat enhancements and conversion of altered habitat back to native vegetation and receive mitigation credits.

**Issue:** A commentor recommended restricting communication towers within a distance of sage-grouse leks and also including surface activity restrictions for oil and gas development.

**FWP Response:** The lease agreement prohibits development of tower structures on the leased property without prior approval by the department. Local circumstances and habitat values, such as the occurrence of a lek, would be considered in the department’s review process if such a development were proposed. FWP has no authority to limit developments on other properties, although if in sage-grouse habitat and if a state permit is required, they would be subject to provisions of the Montana Sage-Grouse Conservation Program.

**Issue:** One commentor recommended the agency set physical and temporal stipulations for surface activity relative to leased lands, ensuring spatial separation of oil and gas development.



**FWP Response:** The Habitat Conservation Lease will preclude surface activity, unless that activity is undertaken by a third party mineral right holder. In that situation, FWP does not have the authority to limit the activity. If the activity is in sage-grouse habitat and if a state permit is required, it would be subject to provisions of the Sage-Grouse Habitat Conservation Program.

**Issue:** One commenter noted that if the Recovering America's Wildlife Act (RAWA) passes in Congress this year, the agency will have roughly another \$28 million per year of federal aid to help ensure that management of game and nongame species has the tools necessary to thrive in the face of changing climate and available habitat. To that end, Habitat Montana can and should be used to help match funding for that program.

**FWP Response:** The commentor is correct that if RAWA passes Congress this year, FWP stands to receive up to \$28 million, which will require a 25% match of nonfederal funds. Habitat Montana is nonfederal, and indeed could be used to match RAWA. RAWA could also be used to fund Habitat Conservation Lease Agreements as they are directed at priority habitats to conserve species of greatest conservation need. If RAWA passes, FWP will finalize a spending and prioritization plan for that funding, which could include use of RAWA for leases, and use of Habitat Montana as match.

**Issue:** A commenter requested that no outfitted properties be allowed to enter in this program.

**FWP Response:** Conservation leases would prohibit charging fees for the public access specifically required by this agreement (hunting or other forms of recreation). Outfitting would be allowed on enrolled lands, but only if public access opportunities described in the agreement are not restricted by the outfitting operation and the landowner provides written consent, including copies to FWP after the end of the hunting season.

**Issue:** Commentors suggested FWP consider allowing use of prescribed fire or mechanical treatment and herbicide to enhance some habitat types, as long as they follow FWP guidelines. For example, they cited low intensity prescribed fire and use of low-impact mechanical treatments (i.e., hand cutting) or herbicide use targeting juniper (a native plant) in sagebrush habitats can be very beneficial in "rejuvenating decadent sagebrush" and in removing invasives/aggressive native species. Another commentor recommended that any forested land entered into these habitat conservation easements also be able to be managed with responsible harvesting and thinning.

**FWP Response:** The commentor makes a valid point that in some instances, manipulation of vegetation improves habitat for target species. The lease terms described in the draft EA provide potential for such manipulations in sagebrush habitat. **FWP will incorporate language in the final program description and in the lease agreement that treatments of vegetation that improve ecological condition may be allowed on a case-by-case basis with FWP approval and following FWP recommendations.**

**Issue:** The draft EA mentions no herbicide treatment can be used to target native plants. A commenter would like to see the agreement specify herbicides can be used to target noxious and invasive plant control. Land that is well managed helps benefit landscape habitats, wildlife, and the overall environment.

**FWP Response:** FWP acknowledges the landowner's ability to treat noxious weeds. Specifically, the lease agreement states: It is understood that this Lease imposes no other obligations or restrictions upon the Landowner and that neither the Landowner nor Landowner's heirs, successors, assigns, lessees, nor any other person or party claiming under them shall be restricted from using all of the Land in the customary manner for agricultural practices except as provided herein. Examples of customary agricultural practices include livestock grazing and land maintenance activities such as fencing, stockwater, *noxious weed control*, and road maintenance.

**Issue:** One commentor recommended that the leased property not be allowed to be split, based on the assertion that a primary goal of Habitat Conservation Lease Agreements is to reduce or eliminate the threat of fragmentation.

**FWP Response:** FWP agrees that splits to properties may lead to additional habitat fragmentation. The Habitat Conservation Lease Agreement prohibits subdivision of enrolled Land except for ranching functions, no smaller than 320 acres. For the purposes of the Habitat Conservation Lease, subdivision is defined as transferring a portion of the enrolled land to another landowner and ranching functions is defined as traditional livestock grazing that is part of a ranching operation. Given the reality of land transfers, FWP believes an absolute prohibition would likely reduce landowner interest and preclude large-scale implementation of this tool. If a property was subdivided per this provision, the stipulations of the lease would remain on the subdivided acreage for the duration of the lease.

**Issue:** A commentor recommended that FWP make it clear that leases are tied to the enrolled fee title property and thus survive the sale of the property.

**FWP Response:** Habitat Conservation Lease agreements would be recorded with the deed at the county courthouse and the leases would run with the land. That is, the property would be bound to the lease terms for the length of the agreement, even if the land changes ownership within the lease period. This would be made clear with any interested landowner. FWP intends that these leases would provide consistent conservation measures for the full span of the agreements.

**Issue:** Several commentors expressed concern about how compliance with public access will be monitored and suggested public access be a component of annual monitoring and incorporated into the monitoring protocol.

**FWP Response:** FWP will publish information about potential for public access in its hunting access guide and on its website. **Landowners will be required to provide documentation of access provided unless it is not limited. FWP will incorporate a more formal protocol for documenting and summarizing access in monitoring protocols.** For landowners who are also enrolled in FWP's Block Management Program, access will be documented through that program.

**Issue:** A commenter recommended that FWP needs to develop a system to ensure that public access is equitably provided to the public, and to convey information about enrolled properties to the public. Additionally, the amount of access provided to the private lands under consideration as well as adjacent

public lands opened through the lease should be considered in the criteria used by FWP to weigh a project for its ranking in the lease program.

**FWP Response:** As stated in the EA and lease agreement, the landowner will provide FWP with current information during the term of the lease for how the public can secure access permission. Location of the enrolled land and current landowner permission details will be made known by the Department to the public through published guides, web-based information, or other means. If demand for habitat conservation leases exceeds available resources, FWP will prioritize proposals and select those that provide the greatest benefits, including public access. In that situation, FWP will provide preference to lease applications who provide significantly more public access than the minimum required.

**Issue:** One commentor expressed concern about the low public access requirement relative to other FWP programs.

**FWP Response:** The primary focus of the program is conservation of habitat. Requiring significant additional access would come at a cost financially, as well as would likely discourage some landowners from participating.

**Issue:** A commentor pointed out on page 14 there is a bullet point that states, “Public recreation access would be in the form of hunting during the Fish Wildlife Commission approved seasons, between September 1-December 31.” In other parts of the EA, it does mention other recreational options, but this sentence makes it sound like those are not an option. The commentor provided the following suggestions: It is important to allow for other recreational activities besides only hunting, such as spring horn hunters or just hiking. Landowners should not have to open their land during hunting at the minimum, and then other times of the year in addition to that to meet the minimum number of days requirement. An agreement between FWP and the landowner should be made that meets the minimum number of days requirement for any time of the year.

**FWP Response:** A minimum required amount of public access must occur during the hunting season between September and December. A landowner may elect to focus all access during that period or they can spread it out over some or all of the year according to the formula in the EA and lease agreement. Outside the hunting season, providing public access for nature-based recreation, as described by the commentor, would be acceptable. Such recreation could include hiking, nature photography, bird watching, nature study, and other similar activities. How the access will be apportioned and how the public can find out about that access opportunity will be negotiated between the Department and landowner and would be detailed in the lease agreement.

**Issue:** A commentor expressed concerns about potential abuses of the program by not requiring documentation of the ALS number of the hunter or angler who utilizes the property and recommended a sign-in roster to record name, ALS, species sought/harvested, and number of recreation days.

**FWP Response:** FWP will work with individual landowners on mechanisms to document public access that is provided. Because the access is not limited to hunting and fishing, but could include other nature-based recreation, that documentation may include other mechanisms than has traditionally been used to document hunter access.

**Issue:** Several commentors expressed concern that Habitat Conservation Lease Agreements are temporary and could be terminated at any time, with a small penalty. Though these leases run with the property, both the seller or the new buyer could terminate them at a fraction of the purchase price.

**FWP Response:** The lease runs with the land, so if the land is sold, the new owner is still responsible for meeting the lease terms. If the lessee decided to terminate the lease, they would be required to pay a prorated amount back for the years remaining, plus a penalty of 25% of the total lease amount. FWP acknowledges this is a fraction of the sales/purchase price of a piece of property, but it is a significant amount of the lease payment the landowner received. Past experience with 30-year leases has suggested landowners are unlikely to terminate conservation lease agreements.

**Issue:** A commenter expressed concern that the EA does not state a rationale for the valuation/payment for the leases. It states that payment would be "upfront" at "a fixed rate per acre, ranging 5-10% of the fee simple value." The fee simple value will evidently be estimated from DNRC land valuations. On what basis and rationale was this percentage established?

**FWP Response:** In setting the payment as a fixed rate based on average fee simple value and using values from DNRC land valuations as determined by an appraiser, FWP is attempting to streamline the application and approval process and provide consistency to landowners interested in the program. Using a fixed payment amount based on appraiser-derived data provides a fair and defensible value and negates the need for individual appraisals, which would significantly delay completing projects and add significant cost. Additionally, FWP is seeking a balance between the overall cost and providing incentive to enroll in the program to accomplish a large scale of application. Up to 10% of fee value for a 30 or 40-year lease seems to fit that balance given the department's experience with other leasing efforts.

**Issue:** A commenter recommended that instead of making all payments upfront to a landowner at the beginning of an enrollment period, FWP consider an annual or other interval-based payment process so that a new landowner will be compensated for an existing lease if the property changes hands.

**FWP Response:** FWP opted to go with an up-front payment to ensure funding for a complete lease is available as an incentive to the landowners. Additionally, FWP cannot guarantee that funding for lease payments would be available several years in the future. Paying the full amount up front ensures the landowner committing to a lease receives full payment. Leases will be recorded with the deed for leased property, so a new owner should be aware of the lease provisions and can negotiate assumption of the lease with the seller.

**Issue:** A commentor wanted to make sure FWP has the staff support to fully and successfully implement the habitat lease program alongside the Department's other efforts. This includes working with landowners to enroll properties and to monitor existing leases to ensure they are adhering to the lease terms.

**FWP Response:** FWP appreciates the recognition that for this program to be successful, additional staff capacity is needed. FWP intends to initially hire three region-based habitat specialists to help

landowners interested in applying, to evaluate applications, complete site visits, help finalize lease terms, and to assist with monitoring. Additional staff may be added depending on landowner interest in the program.

**Issue:** Several commentors expressed concerns about the frequency and type of compliance monitoring, and about the capacity to complete monitoring. They noted that a lot of changes can occur on a property in the 5-year monitoring time frame proposed by FWP. The Proposed Action specified the monitoring frequency, a minimum of once every 5 years, using a combination of flights, aerial imagery, and in person visits. One commenter suggested that while aerial imaging is an effective tool for some monitoring, the program should require on-site inspections at least every two years. Another recommended that an on-site inspection should be done at least once every five years of the lease agreement.

**FWP Response:** FWP agrees that periodic in-person monitoring is important not only for determining compliance with lease terms but also for developing and maintaining relationships between landowners and the department. FWP will commit to monitoring compliance with Habitat Conservation Lease Agreements every other year, by alternating use of aerial monitoring and in person visits. So, in year 2 monitoring would be in person, in year 4 it would be aerial, in year 6 in person, etc.

**Issue:** One commentor recommended Habitat Conservation Lease Agreements be available for big game migration conservation to conserve big game migration routes and winter range.

**FWP Response:** FWP appreciates the importance of migration corridors and winter range habitat. The focus of Habitat Conservation Lease Agreements are particularly important priority habitats. Many of those function as migration “corridors” such as intermountain grasslands and riparian corridors. Other Habitat Montana components and other programs could be used for conserving winter range and migration routes in habitats other than those prioritized for Habitat Conservation Lease Agreements. If the demand for leases is greater than resources FWP will rank proposals. FWP will provide higher priority for habitat lease proposals that include migration corridor habitat in the criteria for prioritizing Habitat Conservation Lease agreements.

**Issue:** A commentor stated the proposal in the draft EA does not outline a specific formula for assessing valuation of the five various focal ecosystems, and it includes no metrics to demonstrate efficacy of investments.

**FWP Response:** FWP is proposing to assess valuation utilizing information prepared by DNRC to determine average appraised values of different habitat types in different parts of the state. Those appraiser-derived values will be used to set a fixed payment amount which may vary by habitat and location. Values will be set based on average fee value of those habitats arranged across the state by units of similar land values. When making a call for project proposals, FWP will make available the prices that will be paid for different priority habitats in different parts of the state. The initial call for proposals will focus on prairie habitats in eastern and southwestern Montana. Intermountain Grasslands will be added in 2023.

**Issue:** A commentor was seeking more information about the valuation methods. For example, is a 40-year lease worth 25% more than a 30-year lease, and how that compared with a perpetual easement.

**FWP Response:** A 30-year lease will be paid a fixed rate equal to 5-10% of the average fee value for the duration of the lease. As an incentive to enter into a longer-term lease, a 40-year lease would be paid a minimum of 30% more than the 30-year payment rather than a straight 25% more. In other words, there will be 5% “incentive” added for 40-year leases. Example, if the lease payment on a 30-year lease is determined to be \$90,000, the payment for a 40-year lease of the same land would be \$126,000.

**Issue:** Commentors noted that Habitat Montana dollars have been a significant keystone to leverage additional funds towards habitat conservation and restoration, and the EA did not take into consideration downstream impacts that may be associated with this action in terms of resources available to leverage with other private, state, and federal funding partners’ investments in the types of projects that have demonstrated conservation benefits. They expressed concern about potential loss of joint projects with land trusts, conservation organizations, and other agencies working on permanent land protection.

**FWP Response:** Habitat Montana dollars will be leveraged at a 1:3 ratio with P-R dollars for leases. Habitat Montana funds not used for leasing will remain available for leveraging with other funding sources, consistent with past practices. As stated previously, the Habitat Montana dollars and other funding sources leveraged with those dollars remain available for conservation easements and fee title acquisitions.

**Issue:** A commentor expressed support for maintaining working ranches and allowing them to stay working ranches under the proposal, such as continuing to allow cattle grazing.

**FWP Response:** FWP agrees that 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.

**Issue:** A commentor questioned why the surface right owner is not allowed to develop mineral rights that they also own.

**FWP Response:** Neither FWP nor the landowner has the authority to prevent development of mineral rights by third party mineral right holders. The landowner can control whether his/her mineral rights are developed, and because the intent of Habitat Conservation Lease Agreements is to limit surface disturbance, prohibiting development of mineral rights by the landowner helps meet the objectives of the program.

**Issue:** A commentor noted this is a challenging time of year, and a longer public comment period would allow for more landowner participation. The other dates on the proposed timeline would also need to be pushed back if the public comment period is extended.

**FWP Response:** FWP appreciates this is a busy time of year for agricultural producers. Because there were minimal issues raised and impacts were primarily positive, the comment period will not be extended. FWP welcomes input from landowners and others and can adaptively make program adjustments if necessary, based on continued input, especially as the program is implemented and we learn if there are areas that need adjustment. If such adjustments are outside the scope of this analysis, FWP would conduct additional analyses and seek further input from the public.

**Issue:** A commentor recommended the Commission should review every application and that it would be best to consider each application on its own.

**FWP Response:** FWP is seeking programmatic approval of leases that meet the stipulations of the lease agreements as described in the EA. Commission approval of individual leases is within their prerogative, but that additional step would delay completing leases as the commission process adds a minimum of 4 months to the time required for completion of a lease. One program goal is to make these leases not only effective at habitat conservation but relatively simple and quick to implement for both landowners and department staff. A streamlined process may potentially increase landowner interest.

**Issue:** A commentor stated that Montana's habitat conservation needs will not be met by adding this extensive short-term habitat component to the program, especially considering the myriad of existing programs that were explicitly designed to focus on habitat improvement, upland game bird management, and access programs, such as Block Management, which likely would pay a higher dividend than this program once cooperators factor the maximum payment over the course of the 30-40- year time frame.

**FWP Response:** Habitat Conservation Lease Agreements will result in conservation of important habitats by limiting surface disturbances, but will not improve habitats per se. This directly addresses any short-term threat to these habitats. Public access will be a requirement as well. Land enrolled in a Habitat Conservation Lease Agreement does not preclude the opportunity for habitat enhancement through other programs or supporting public access by enrollment in Block Management. It is possible if not likely that landowner enrollment in this program would result in further involvement with habitat enhancement and access programs over time.

**Issue:** A commentor noted their organization appreciates initiatives that provide flexibility to landowners who choose to participate in conservation programs and that each ranch operation looks at different elements when making decisions on whether to engage in a conservation program. They noted that an incentive-based, voluntary agreement that helps to conserve priority wildlife habitats on private lands while also supporting working lands and public hunting and recreation opportunities will be attractive to some ranchers. Additionally, they expressed appreciation for the 30- or 40-year terms outlined in the program rather than the requirement for a perpetual lease. This makes this lease option a much more attractive management tool.

**FWP Response:** FWP appreciates working lands and recognizes that each landowner considers multiple variables when deciding whether to participate in conservation programs. Habitat Conservation Lease

Agreements provide another tool for landowners to consider and is entirely voluntary. FWP recognizes that different options can lead to more landowner participation across Montana's habitats.

#### **FWP Recommended Alternative and Final Decision**

In reviewing all the public comment and other relevant information, and evaluating the environmental effects, I recommend that Montana Fish, Wildlife and Parks as proposed in Alternative B, the Proposed Action.

Through the public review process described above, the public raised some issues/concerns with the proposal that have been addressed in this decision document. Specific additional commitments are underlined and bolded. FWP found no significant impacts on the human or physical environments associated with this proposal; therefore, the EA is the appropriate level of analysis and an environmental impact statement is not required.

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.



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Ken McDonald  
Wildlife Division Administrator

August 12, 2022  
Date



## **APPENDIX A**

### **Habitat Conservation Lease Agreements**

PUBLIC COMMENTS RECEIVED DURING  
THE COMMENT PERIOD



July 12, 2022

Mr. Ken McDonald  
Division Administrator

Montana Department of Fish, Wildlife & Parks

P.O. Box 200701

Helena, Mt 59620-0701

RE: Habitat Leasing Environmental Assessment Dear

Ken,

Thank you for the opportunity to comment on the Habitat Leasing Environmental Assessment relative to creating short-term leases for habitat conservation. In our view, this massive restructuring of an effective and popular program deserves a more thorough and comprehensive analysis on its merits, which we do not see within this document. Given the scope of the proposed changes, the expected massive expenditure, and the apparent sea- change in the uses of the program, we urge a far more cautious approach than that proposed within the Environmental Assessment (EA). As such, the Montana Citizen's Elk Management Coalition recommends adoption of Alternative A: No change.

Since the 1980s, Habitat Montana has conserved and provided access to almost 1 million acres of land on a permanent basis. The fund represents fiscal conservatism and small, efficient government at its best. Any program that is 30 years old deserves scrutiny, however we contend that Montana's conservation needs will not be met by adding this extensive short-term habitat component to the program, especially considering the myriad existing programs that were designed specifically to focus on habitat improvement, upland game bird management, and access programs such as Block Management, which likely would pay a higher dividend than this program once cooperators factor the maximum payment over the course of the 30-40 year time frame.

While the Montana Citizen's Elk Management Coalition recommends Alternative A until such a time that a thorough Environmental Impact Statement can be developed, we do not oppose the strategic and focused use of short-term easements, especially if they help open up landlocked public land and provide meaningful, long-term conservation outcomes for multiple species.

However, we are concerned that the Commission is being asked to make decisions without enough information, which will then force the agency to fix issues that could have been avoided by simply taking the time to more thoroughly develop this project.

#### **General Concerns:**

- 1.) In our view, the proposed action is fiscally irresponsible given the limited funds available to Habitat Montana and current projects in the pipeline for both fee title acquisition and conservation easements. The Environmental Assessment does not outline a formula for assessing valuation of the various ecosystems listed in the EA, yet makes the claim that the agency seeks to spend no less than \$5 million to \$7 million per year over the next 5 years, expenditures that would consume the majority of conservation funding available to the Habitat Montana program and lead to higher costs for lesser conservation outcomes. A brief sentence in the EA about establishing a valuation between 5 percent and 10 percent of the fee title value is not justified by data or citations. As such, it leads us to believe that the methodology used to determine how millions of dollars would be spent by the administration needs significant refinement and the opportunity for public comment before moving forward with this project.
- 2.) Supporting documents, such as the website landing page (<https://fwp.mt.gov/public-notice/news/2022/jun/0614-habitat-conservation-lease-agreements-ea>), accompanying FAQ, as well as the EA, state that the agency seeks to use this funding to improve sage-grouse habitats in order to help conserve the species. This is a laudable goal, but ignores the agency's other tools such as the Upland Game Bird Habitat Enhancement Program, the Wildlife Habitat Improvement Program, and it apparently seems determined to replace the use of general tax dollars contributed to the Montana Sage Grouse Stewardship Program with the lower value, less effective conservation effort of short-term leases. Furthermore, shifting the burden of funding away from the Sage Grouse Stewardship account and placing the bulk of grouse conservation on the backs of hunters ignores the work of Montanans that resulted in the 2015 decision not to list sage-grouse on the federal endangered species list, and puts the species at risk of judicial action rather than allowing individual states to follow through with their approved sage-grouse management plans. The funding plan in the EA diverts resources from other species, including elk, for a species that already has a fund dedicated to protecting it along with other underutilized programs that could be used for the very goals outlined in this EA.
- 3.) Existing projects in the Habitat Montana pipeline have no protection under the proposed

action, with the agency seeking to solicit applications by August 1, 2022. With several conservation easements under consideration, plus several small- and large-scale acquisitions working their way through the agency, the speed at which FWP hopes to implement this new program is too fast and ill-advised. We encourage the agency to take the time to thoughtfully develop this plan.

- 4.) We maintain that the scale, speed, and implications of this program are beyond the scope of a simple Environmental Assessment, and recommend the agency pursue a programmatic Environmental Impact Statement to fully analyze the proposal. With the agency's admission that the majority of Habitat Montana funding will be diverted to pay for the short-term easements, this represents a major shift in policy, especially in light of the general concerns raised in points 2 and 3 above. The impact to landowners currently working on projects funded by Habitat Montana could put the future of their farms and ranches in jeopardy. We cannot imagine that's the intention of the department.
- 5.) In the event that the Recovering America's Wildlife Act passes in Congress this year, the agency will have roughly another \$28 million per year of federal aid to help ensure that game and nongame species have the tools necessary to thrive in the face of changing climate and available habitat. To that end, Habitat Montana can and should be used to help match funding for that program.
- 6.) We're concerned that abandoning the multi-species focus of Habitat Montana will result in the loss of big-game winter range, fragmentation of migration corridors, and lost opportunities to conserve landscape-scale habitats at the very time that all these critical habitats are under pressure from subdivisions, climate change, and land conversion. A shift away from one of the primary drivers of Habitat Montana - conservation of critical habitats for all species— means less available habitat as ranches are subdivided and sold off piecemeal, and it means fewer elk for Montana hunters. For grizzly bears, it stymies efforts to delist the Northern Continental Divide Ecosystem population. And it frustrates recent work to ensure migration corridors remain intact in the most heavily developed areas of the state.

**Proposed Action:**

The proposed action misses key opportunities to leverage existing programs to achieve the agency's conservation goals and provides very little detail about the fiscal assumptions used to justify the program. Since this is a major overhaul of a cornerstone program, we would expect more details about land valuation and return on the public investment. We recommend that the agency further review and adopt a more thoughtful approach to valuation before sending out application notices.

- 1.) **Lease Stipulations:** We suggest the list of stipulations include exclusion of tower structures for communications within a certain radius of a sage-grouse lek. Furthermore, we recommend the agency set physical and temporal stipulations for surface activity relative to leased lands, ensuring spatial separation of oil and gas development from leks. We recommend that the agency adopt the stipulations outlined in the Montana Sage Grouse Oversight Team's policy guidebook that the agency and many other stakeholders developed in order to effectively mitigate development in occupied sage-grouse habitat.

You can find that information here:

[https://sagegrouse.mt.gov/documents/1\\_Final\\_MT\\_Policy\\_Guidance\\_October4-2018\\_compressedV11.pdf](https://sagegrouse.mt.gov/documents/1_Final_MT_Policy_Guidance_October4-2018_compressedV11.pdf)

- 2.) **Access:** We applaud the agency mandating access to the leases, however, we anticipate that self-reporting will lead to abuses of the program by not requiring an actual metric and reporting requirement to record the ALS number of the hunter or angler who utilizes this property. There exists a notion that some landowners are using systems like this, funded by public hunters, and then providing exclusive access to paying customers or others not anticipated by the program. We recommend establishing a sign-in roster that records the name, ALS, species sought/harvested, and number of recreation days. Furthermore, we request that no outfitted properties be allowed to enter in these programs, as the landowner is already motivated and compensated for their habitat stewardship under a free-market situation.
- 3.) **Funding Metrics:** The substantial shift in funding sources and priorities for a large and popular program like Habitat Montana without having any actual funding metrics available is poor planning and not in the public's interest. The Commission should not adopt this program until the funding metrics are established and have been reviewed not only by the public, but by land-valuation experts who understand the complexities of short-term vs long-term leases.
- 4.) **Enrollment Process, Eligibility, and Priority Ranking:** While there are some good ranking and eligibility choices detailed in the EA, we strongly suggest NOT allowing properties that are leased for hunting either privately or through an outfitter. There is no reason the public should pay for the habitat management of a private hunting preserve. Furthermore, we recommend the department consider funding availability and impacts on forested ecotypes, big-game winter range and habitats for other species. These are the lands that are most at risk of development, and losing mechanisms and funding to conserve them is a recipe for increased wildlife conflict in the rural-urban interface and is a dereliction of duty on the part of the agency. Furthermore, shifting the burden of funding and conservation of sage-grouse to hunters, rather than the current model that takes into account all other stakeholders, is both an

improper burden on hunters and opens the agency to judicial scrutiny of its sage-grouse conservation plan.

- 5.) **Environmental Review Checklist:** Contrary to the agency's own public relations push, we note that no sage-grouse mitigation requirements are detailed in the checklist. We recommend adopting the Montana sage-grouse mitigation framework for this effort and continue to hold industry accountable for their impacts to the species. If those guidelines are not brought forward, then the biggest threats to sage-grouse still remain on these lands, and funds directed for sage-grouse conservation would be wasted.
- 6.) **Public Participation:** While we appreciate the agency's public process, we question why the Upland Game Bird Enhancement Council and regional Citizens Advisory Councils aren't part of this discussion. We feel they should be.

### **Conclusion:**

Habitat Montana is an effective, popular tool to permanently protect our most cherished and endangered landscapes in Montana. It represents government efficiency and public/private cooperation at its finest. Short-term leases may work in some isolated instances, but making it the bulk of the program is ill-advised and short-sighted for the reasons we have detailed above. It doesn't ensure sound, proven conservation practices on Montana's landscape. It prevents those landowners with a conservation vision for their land from attaining their legacy goals, and worse, it leaves some landowners with no option but to sell. We strongly urge the agency and Commission to table this effort until the financial impact is more thoroughly known, and the agency has a chance to fully develop this concept. As it stands, this EA is incomplete and relies too much on the notion that details will be resolved as the program rolls out. That is not ideal for implementing a major shift in conservation priorities and funding.

The Montana Citizen's Elk Coalition respectfully asks that this proposal not move forward. On behalf of the coalition,



**ROCKY MOUNTAIN  
ELK FOUNDATION**

July 11, 2022

Montana Fish, Wildlife and Parks c/o  
Ken McDonald

P.O. Box 200701

Helena, MT 59620 email:  
fwpwld@mt.gov

Mr. Ken McDonald,

The Rocky Mountain Elk Foundation's (RMEF) mission is to ensure the future of elk, other wildlife, their habitat and our hunting heritage. We represent more than 225,000 members nationwide and more than 14,000 members in Montana. Since inception in 1984, RMEF has conserved or enhanced over 8.4 million acres of North America's most vital habitat for elk and other wildlife, including more than 900,000 acres in Montana, in addition to over 350,000 acres of public access open or improved.

RMEF appreciates the opportunity to comment on the Montana Fish, Wildlife and Parks (FWP) Habitat Conservation Lease Agreements Programmatic Environmental Assessment (EA). We recognize FWP has designed this conservation program to provide landowners with a new conservation planning tool that will assist in addressing habitat conversion and fragmentation threats for wildlife, including elk. We request that the following recommendations be incorporated into the subsequent design and implementation of the proposed program:

General:

RMEF supports *Alternative B: Proposed Action*. This alternative would set into motion further development and implementation of a programmatic habitat conservation leasing program as described in Section 8: Narrative summary of the Proposed Action.

RMEF supports programmatic approval for FWP staff to enroll 500,000 acres over a 5-year period. FWP staff would utilize programmatic ranking and due diligence best practices and procedures and should take into consideration RMEF's comments contained within this letter.

Lease Stipulations:

Prairie habitats – as proposed would prohibit prescribed fire, mechanical treatment, or herbicide use (native plants) of sagebrush habitats. Low intensity prescribed fire and use of low-impact mechanical treatments (i.e., hand cutting) or herbicide use targeting juniper (a native plant) in sagebrush habitats can be very beneficial in rejuvenating decedent sagebrush and in removing invasives/aggressive native species. RMEF suggests FWP reduce this restriction to allow use of prescribed fire or mechanical treatment and herbicide following FWP guidelines.

Conservation requirements for all enrolled habitats – RMEF encourages limited, to no property splits during the course of the lease. RMEF understands that a primary goal of the habitat conservation lease program is to eliminate or reduce the threat of fragmentation and/or conversion on priority habitats. Subsequently RMEF encourages terms of the leases to restrict subdivision of property to a boundary line adjustment or family transfer. RMEF also recommends clarifying that the leases are tied to the fee title property enrolled and therefore survive a sale of the property. Limited boundary line adjustments or family transfers that are negotiated rather than allowing general property splits is a way to reach programmatic goals of limiting fragmentation threats on high priority wildlife habitat.

Conservation Lease Monitoring:

Land trusts and government entities that hold conservation easements generally adhere to Land Trust Alliance Standards and Practices (LTA S&P). Standard 11 outlines best practices for Conservation Easement Stewardship. Standard 11, subsection C suggests adopting a written procedure for monitoring to ensure protocols and recordkeeping is maintained. RMEF agrees that aerial and satellite imagery is an effective tool for monitoring, however, an on-site inspection should be done once every five years of the lease agreement. Furthermore, FWP's suggested periodic landowner mailings, surveys or annual monitoring should include data reporting from the landowner on public access usage on the leased property. Public access usage should be collected, and the mode of collection addressed in FWP's monitoring protocol.

RMEF appreciates the opportunity to engage in FWP's Habitat Conservation Lease Agreements Programmatic EA. We look forward to continuing to work with private landowners and FWP through effective conservation implementation programs.

Sincerely,



Jennifer Doherty

Director of Lands and Access





Protecting Montana's wildlife, land, waters, and  
hunting & fishing heritage for future generations.

13 July 2022

Montana Fish, Wildlife and Parks c/o Ken  
McDonald

P.O. Box 200701

Helena, MT 59620

**RE: Habitat Conservation Lease Agreements - Draft Programmatic EA**

Dear Director Worsech,

The Montana Wildlife Federation (MWF) is the state's largest hunter advocacy organization consisting of thousands of Montanans who value sound wildlife and wildlife habitat management and our storied hunting and outdoor legacy.

Together with our members and twenty affiliated organizations, we ensure that wildlife conservation dollars are efficiently spent on wildlife-related activities, promote sound biology in managing our state's wildlife, and safeguard our hunting heritage. In addition, quality wildlife habitat is one of Montana's most cherished public trust resources. For these reasons, MWF is grateful for the opportunity to comment on the Draft Programmatic Environmental Assessment (EA) on the proposed Habitat Conservation Lease Agreements (Habitat Leases).

Based on the results outlined by the Department of Fish, Wildlife, and Parks (FWP) in the Draft Programmatic Environmental Assessment (EA), specifically the scope of the changes being proposed, the massive expenditure expected, and the apparent seachange in how the program is to be used, we urge a far more cautious approach than that offered within the Environmental Assessment.

Therefore, **MWF recommends the adoption of Alternative A: the "no change" alternative.** In our view, this massive restructuring of an effective and popular program deserves a more thorough analysis of its merits. Unfortunately, we do not see this reflected within this document.

Since the 1980s, Habitat Montana has conserved and provided access to almost one million acres of land permanently. Habitat Montana represents fiscal conservatism and small, efficient government at its best. Any program that is 30 years old deserves scrutiny; however, Montana's conservation needs will not be met by adding this extensive short-term habitat component to the program, especially considering the myriad of existing programs that were explicitly designed to focus on habitat improvement, upland game bird management, and access programs, such as Block Management, which likely would pay a higher

dividend than this program once cooperators factor the maximum payment over the course of the 30-40 year time frame.

While **MWF recommends Alternative A** until such a thorough Environmental Impact Statement can be developed, we do not oppose the strategic and focused use of short-term easements, especially if they help open up landlocked public land and provide meaningful, long-term conservation outcomes for multiple species. However, we are concerned that the Commission is being asked to make decisions in the dark while the agency will be scrambling to fix issues that could have been avoided by simply taking the time to develop this project more thoroughly.

### **General Concerns:**

- 1) Our view is that the proposed action is fiscally irresponsible given the limited funds available to Habitat Montana and current projects in the pipeline for both fee title acquisition and conservation easements. The EA does not outline a formula for assessing the valuation of the various ecosystems listed in the EA, yet claims that the agency seeks to spend no less than \$5-7 million per year over the next five years, expenditures that would consume the majority of conservation funding available to the Habitat Montana program, leading to higher costs for lesser conservation outcomes. A brief sentence in the EA about establishing a valuation between 5 and 10 percent of the fee title value is not justified by any data or citations. As such, it leads us to speculate that the methodology used to develop the expectation of how millions of dollars would be spent by the administration would need significant refinement and public comment opportunity before moving forward with this project.
- 2) Supporting documents, such as the website landing page, the FAQ, and the EA, state that the agency seeks to use this funding to improve sage grouse habitats to help conserve the species. Improving sage grouse habitat is a laudable goal; however, this proposal ignores the agency's other tools, such as the Upland Game Bird Habitat Enhancement Program and the Wildlife Habitat Improvement Program. Further, it seems determined to replace the use of general tax dollars contributed to the Montana Sage Grouse Stewardship Program with the lower value, less effective conservation effort of short-term leases. Furthermore, shifting the burden of funding away from the Sage Grouse Stewardship account and placing the bulk of grouse conservation on the backs of hunters ignores the work of Montanans that resulted in the 2015 decision not to list sage grouse and puts the species at risk of judicial action rather than allowing the states to follow through with their approved management plans. Finally, this funding plan diverts resources from other species, including elk, for a species that already has a fund dedicated to protecting it, along with other underutilized programs that could be used for the goals outlined in this EA.
- 3) Existing projects in the Habitat Montana pipeline have no protection under the proposed action, with the agency seeking to solicit applications by

August 1. With several conservation easements under consideration, plus several small- and large-scale acquisitions working their way through the agency, the speed at which FWP hopes to implement this new program is ill-advised. We encourage the agency to take the time to thoughtfully develop this plan and provide the public with more time to help improve this proposal.

- 4) We maintain that the scale, speed, and implications of this program are beyond the scope of a simple EA and recommend the agency pursue a programmatic Environmental Impact Statement to analyze the proposal thoroughly. With the agency's admission that most Habitat Montana funding will be diverted to pay for the short-term easements, this represents a significant shift in policy, especially in light of the general concerns raised in points 2 and 3. In addition, the impact on landowners currently working on projects could jeopardize the future of their farms and ranches. We cannot imagine that's the department's intention, and it raises questions about other unintended consequences that this simple EA does not consider.
- 5) When the Recovering America's Wildlife Act passes the Senate this year, the agency will have roughly another \$28 million per year of federal aid to help ensure that game and nongame species have the tools necessary to thrive in today's climate and habitat availability. To that end, Habitat Montana can and should be used to help match funding for that program.
- 6) We're concerned that abandoning the multi-species focus of Habitat Montana will result in the loss of big-game winter range, fragmentation of migration corridors, and lost opportunities to conserve landscape-scale habitats at the very time that all these critical habitats are under pressure from subdivisions, climate change, and land conversion. A shift away from one of the primary drivers of Habitat Montana (conservation of critical habitats for all species) means less available habitat as ranches are subdivided and sold off piecemeal. It means fewer elk for Montana hunters. For grizzly bears, it frustrates efforts to delist the Northern Continental Divide Ecosystem population. And it further frustrates recent efforts to ensure migration corridors remain intact in the most heavily developed sections of the state.

#### **Proposed Action:**

The proposed action misses key opportunities to leverage existing programs to achieve the agency's conservation goals and provides little detail about the fiscal assumptions used to justify the program. As this is a significant overhaul of a cornerstone program, we would expect more information on land valuation and return on public investment. We recommend that the agency further review and adopt a more thoughtful approach to valuation before sending out application notices.

- 1) **Lease Stipulations:** We suggest the list of stipulations include the exclusion of tower structures for communications within a certain radius

of a sage grouse lek. Furthermore, we recommend the agency set physical and temporal stipulations for surface activity relative to leased lands, ensuring spatial separation of oil and gas development. Finally, we recommend the agency adopt the stipulations outlined in the Montana Sage Grouse Oversight Team's policy guidebook that the agency and many other stakeholders developed to mitigate development in occupied sage grouse habitat effectively. You may find that information here:

[https://sagegrouse.mt.gov/documents/1\\_Final\\_MT\\_Policy\\_Guidance\\_October\\_4-2018\\_compressedV11.pdf](https://sagegrouse.mt.gov/documents/1_Final_MT_Policy_Guidance_October_4-2018_compressedV11.pdf).

- 2) **Access:** We applaud the agency mandating access to the leases. However, we anticipate self-reporting will lead to abuses of the program by not requiring an actual metric and reporting requirement to record the ALS number of the hunter or angler who utilizes this property. There exists a notion that some landowners are using systems like this, funded by public hunters, and then providing exclusive access to paying customers or others not anticipated by the program. We recommend establishing a sign-in roster that records the name, ALS, species sought/harvested, and the number of recreation days. Furthermore, we request that no outfitted properties be allowed to enter these programs, as the landowner is already compensated for their habitat stewardship under a free-market situation.
- 3) The substantial shift in funding sources and priorities for a large and popular program like Habitat Montana without having any actual funding metrics available is poor planning and not in the public's interest. The Commission should not adopt this program until the funding metrics are established and reviewed by the public and land-valuation experts who understand the complexities of short-term vs. long-term leases.
- 4) **Enrollment Process, Eligibility, and Priority Ranking:** While some good ranking and eligibility choices are detailed in the EA, we strongly suggest disallowing properties leased for hunting either privately or through an outfitter. There is no reason the public should pay for the habitat management of a private hunting preserve. Furthermore, we recommend the department consider funding availability and impacts on forested ecotypes, big-game winter range, and habitats for other species. These are the lands most at risk of development, and losing mechanisms and funding to conserve them is a recipe for increased wildlife conflict in the rural-urban interface and is a dereliction of duty on the part of the agency. Furthermore, shifting the burden of funding and conservation of sage grouse to hunters, rather than the current model that considers all other stakeholders, is an improper burden on hunters and opens the agency to judicial scrutiny of its sage grouse conservation plan.
- 5) **Environmental Review Checklist:** Contrary to the agency's own public relations push, we note that no sage grouse mitigation requirements are detailed in the checklist. We recommend adopting the Montana sage grouse mitigation framework for this effort and continue to hold industry accountable for their impacts on the species. If those guidelines are not brought forward, then the most significant threats to sage grouse remain

on these lands, and funds directed for sage grouse conservation would be wasted.

- 6) **Valuation Process:** We believe the valuation process needs to be transparent and clearly structured. Because federal funds are anticipated as a substantial source of money, appraisals in accordance with the Uniform Appraisal Standards for Federal Land Acquisition should be required to establish the value for each agreement.
- 7) **Public Participation:** While we appreciate the agency's public process, we question why the Upland Game Bird Enhancement Council and regional Citizens Advisory Councils aren't part of this discussion. Additionally, we are deeply concerned about how quickly this process has been ramrodded through. We feel strongly that a month and one online meeting is poor public involvement and signals to Montanans that their voices don't matter, and this process is simply meant to check a box. Therefore, we recommend that the Department provide a more transparent and robust public process moving forward.

### **Conclusion:**

Habitat Montana is a wonderful tool to protect our most cherished and endangered landscapes in Montana permanently. It represents government efficiency and public/private cooperation at its finest. Short-term leases may work in some isolated instances, but making it the bulk of the program is ill-advised and short-sighted for the reasons we detail. We also worry that this move will leave some landowners with no option but to sell. We strongly urge the agency and Commission to table this effort until the financial impact is more thoroughly vetted and the agency has a chance to develop this concept fully. This EA is incomplete and relies too much on the notion that details will be resolved as the program rolls out. That is not ideal for implementing a significant shift in conservation priorities and funding. MWF respectfully asks for the adoption of Alternative A, no action.

Sincerely,

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal line extending to the right.

Marcus Strange

Montana Wildlife Federation

Director of State Policy and Government Relations



**BACKCOUNTRY  
HUNTERS & ANGLERS**  
MONTANA

July 13, 2022

Montana Fish, Wildlife, & Parks c/o  
Ken McDonald

P.O. Box 200701  
Helena, MT 59620

RE: Habitat Conservation Lease Agreements EA

Dear Mr. McDonald,

I'm submitting this letter on behalf of the Montana Chapter of Backcountry Hunters & Anglers (MT BHA) and our nearly 3,000 dues-paying in-state members. While we broadly support efforts to provide vital habitat for wildlife in this state, we believe this new lease program proposal is misguided and wholly unnecessary. This program is expensive, duplicative, barely enforceable, and runs counter to the best tool already available to landowners: the existing Habitat Montana program. For these reasons, we oppose this leasing program and support Alternative A: no action.

The proposal would take \$25-35 million dollars from Habitat Montana, Pittman Robertson Restoration, and other sources to fund temporary 30- or 40-year leases that could be terminated at any time, with a small penalty. Though these leases run with the property, both the seller or the new buyer could terminate them at a fraction of the purchase price. Essentially, if someone wants out of the lease, all they would have to do is pay out the remaining years and 25 percent of the agreement payment. As property values increase and land becomes more attractive, these payouts will be less and less prohibitive as they're already low at just 5-10 percent of the property's value, and the buyouts do not take into consideration property values increasing over time. The penalty for terminating the lease could have little teeth. Ultimately, we worry that many landowners will take advantage of this program to use land as they have already been using it, with little consequence should they choose to sell to someone willing to terminate the lease. In other words, we see little value in this new proposal, especially considering the numerous short-term programs that currently exist to incentivize property owners to conserve lands.



[WWW.BACKCOUNTRYHUNTERS.ORG/MONTANA\\_BHAMONTANA](http://WWW.BACKCOUNTRYHUNTERS.ORG/MONTANA_BHAMONTANA)

[@BACKCOUNTRYHUNTERS.ORG](mailto:@BACKCOUNTRYHUNTERS.ORG)

We also fear that at a payout of just 5-10 percent of the property's value – if this becomes the preferred method for Habitat Montana easements – this will likely fall short of what many Montana's agricultural families will need to keep their properties and will lead to more subdividing and development.

Alternatively, the sportsmen- and women-funded Habitat Montana has been in existence since 1987 and offers substantial value to landowners while requiring no general fund money or outside money. Instead, the incredibly popular program uses license dollars to purchase permanent conservation easements, to the benefit of both the hunting public and Montanan's working landowners. Instead of something that could be sold or rescinded for a nominal fee, these easements specifically help preserve habitat that is beneficial to working families, to wildlife and to livestock in *perpetuity*. To date, some 339,194 private acres have been preserved in perpetuity under this program. These easements run with the land and will keep Montana's families, farms, ranches and wildlife on the landscape. It would be egregiously wrong to take money from this program (which also helps fund Wildlife Management Area acquisitions and new fishing access sites) and spend it in a way that won't last and likely won't make a significant enough impact for Montana's landowners to gain much traction.

We recognize and appreciate the many private landowners who have utilized Habitat Montana to continue to provide habitat and we recognize the value of keeping working lands conserved for current and future generations, even in the short term. But this leasing program is a step backward and an expensive temporary approach that likely won't change much on the ground. We implore the department to maintain the use of Habitat Montana dollars for their intended purpose, and not implement this program. We support Alternative A: no action.

We appreciate your careful consideration,

Jake Schwaller, Billings, MT Eastern  
Montana Board Member

Montana Chapter of Backcountry Hunters & Anglers



**From:** [Dick Dolan](#)  
**To:** [FWP Wildlife](#)  
**Subject:** [EXTERNAL] TPL Comments on Draft Habitat Leasing EA  
**Date:** Wednesday, July 13, 2022 9:04:39 AM

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To Montana Fish, Wildlife and Parks c/o Ken McDonald:

I am the Northern Rockies Director of The Trust for Public Land (TPL) and I am submitting these comments on behalf of TPL. I also submitted them via the online link provided in the EA announcement.

TPL has been conserving land for people in Montana for over 20 years and has used state funds to help in those efforts from time-to-time. TPL has several concerns about the proposed Habitat Leasing program.

Habitat leasing, if properly and carefully designed, can serve as another tool to accomplish effective habitat conservation. The tools we have historically used--conservation easements and fee simple acquisition--have proven to be very effective uses of Montana taxpayer dollars. They have produced outstanding results for Montana taxpayers and recreational land users, and we urge the Department to continue using those tools in order to continue achieving those results. Habitat leasing should not be a replacement of those two very effective tools, but, instead, an additional conservation tool that can be used if conservation easements or fee acquisition are not appropriate or possible for a given area or habitat goal.

The EA does not state a rationale for the valuation/payment for the leases. It states that payment would be "upfront" at "a fixed rate per acre, ranging 5-10% of the fee simple value." The fee simple value will evidently be estimated from DNRC land valuations. On what basis and rationale was this percentage established? Without a more transparent valuation rationale, the public cannot be assured that their tax dollars are buying good habitat value.

TPL is also concerned about the monitoring approach discussed in the EA. Ideally, the program should follow the Land Trust Alliance Standards and Practices that land trusts and government entities use to ensure compliance. Standard 11 of those Standards and Practices sets forth the best practices for such monitoring. Specifically, while aerial imaging is an effective tool for some monitoring, the program should require on-site inspections at least every two years.

Thank you for the opportunity to comment on this Draft EA.

---

**Dick Dolan**

**Northern Rockies Director**



**Trust for Public Land**

1007 East Main Street, Suite 300

Bozeman, MT 59715

C: 406.581.6417

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**From:** [Joel Webster](#)  
**To:** [FWP Wildlife](#); [McDonald, Ken](#)  
**Cc:** [Scott Laird](#)  
**Subject:** [EXTERNAL] TRCP Comments on FWP Habitat Lease Agreements EA  
**Date:** Tuesday, July 12, 2022 5:47:18 PM  
**Attachments:** [FWP Habitat Conservation Lease Agree TRCP Comments 7 12 22.pdf](#)

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Dear Mr. McDonald:

Please consider the attached comments from TRCP on Habitat Conservation Lease Agreements as proposed by the Montana Department of Fish, Wildlife and Parks (FWP) in a June 13, 2022, Draft Programmatic Environmental Assessment.

Thank you for your consideration of our input and for your service in support of Montana's wildlife resources.

Best,

Joel

Joel Webster

*Vice President of Western Conservation*

**Theodore Roosevelt Conservation Partnership**

725 W Alder St Suite 1

Missoula, MT 59802

406.926.3201 Ext. 11 (office)

406.360.3904 (cell)

[www.trcp.org](http://www.trcp.org) [[trcp.org](http://trcp.org)]

July 12, 2022

Montana Fish, Wildlife and Parks  
c/o Ken McDonald

P.O. Box 200701

Helena, MT 59620

**Re: Comments on Draft EA for Habitat Conservation Lease Agreements**

Dear Mr. McDonald:

The Theodore Roosevelt Conservation Partnership (TRCP) is a conservation organization working to guarantee all Americans quality places to hunt and fish. The TRCP works with 62 formal partners and represents over 130,000 individual members nationally, including more than 3,500 throughout Montana. Conserving fish and wildlife habitat and public access for outdoor recreation on our public lands is of great interest to us and our members. Please consider these comments on habitat conservation lease agreements as proposed by the Montana Department of Fish, Wildlife and Parks (FWP) in a June 13, 2022, draft programmatic environmental assessment.

The TRCP supports new tools that FWP and private landowners can use to help working lands remain working and to retain large blocks of high priority habitat for conservation purposes. A FWP habitat conservation leasing program can provide additional hunting opportunities for the public on lands that were previously unavailable. The sagebrush, grassland, and riparian habitats targeted by this proposed program are certainly worthy of such protections given soaring land prices, development pressures, and the conversion of wildlife habitat to other uses. Perpetual conservation easements may not fit the specific circumstances for all landowners and a term-limited conservation lease may provide a better alternative in some circumstances. A few years ago, FWP had an upland game bird program that focused on 15-year term conservation easements protecting upland game bird/sage grouse habitat. Perhaps FWP could review that program for any lessons learned.

There are concerns with unintended consequences of this proposed leasing program that deserve consideration. Most notably, caution should be used to ensure that a leasing program doesn't become a proxy or replacement for the robust and publicly supported conservation easement and fee title programs that have long existed within FWP. Conservation easements and fee title are permanent, while habitat leases are temporary. We recognize that there are political forces working to undermine or eliminate FWP's conservation easement and land acquisition programs and/or Habitat Montana, and we don't want to see a habitat conservation lease program become the default for FWP because it's the politically-easy path. Instead, habitat leases should be applied alongside permanent conservation easements and fee title acquisitions when the local conditions and particulars of a project make it the most compelling option.

TRCP wants to make sure FWP has the staff support to fully and successfully implement the habitat lease program alongside the Department's other efforts. This includes working with landowners to enroll properties and to monitor existing leases to ensure they are adhering to the lease terms.

TRCP views conservation leases as essentially term conservation easements. FWP needs to ensure it has the capacity to administer and monitor compliance of the terms in these leases. The EA speaks to monitoring these leases every five years. A lot of changes can occur on a property in such a time frame.

We understand that the intent is to have conservation leases stay with the property for the entire term (e.g. 30-40 years). What happens when a property changes ownership? It seems that FWP might find itself in difficult situations when a new landowner wants to break the lease and is expected to pay a pro-rated value of the original lease payment even though they never received a payment because they bought the property a couple years into the lease. We recommend that instead of making all payments upfront to a landowner at the beginning of an enrollment period, FWP consider an annual or other interval-based payment process so that a new landowner will be compensated for an existing lease if the property changes hands. FWP could additionally consider a signing bonus or balloon upfront payment to incentivize the lease signing process at the beginning.

TRCP requests that Habitat Leases be available for big game migration conservation. FWP has been working to research and map big game migration corridors through implementation of DOI Secretarial Order 3362 and the FWP Terrestrial Movement and Migration Strategy. Action 4 of the FWP Strategy directs the Department to "incorporate wildlife movement and migration areas more explicitly in FWP habitat programs and plan updates to make resources available for conserving habitat and improving landscape permeability specific to wildlife movement and migration." Given the considerable work happening in places like the Paradise Valley where conservation interests are working with landowners to conserve important migratory habitat for elk and other wildlife on both public and private lands, the habitat leasing program should explicitly be available for FWP to utilize to conserve big game migration routes and winter range.

With regard to access, the EA addresses the hunter days allowed depending on acres under lease. To prevent a landowner from solely providing access to their friends and family, the TRCP believes that FWP needs to develop a system to ensure that public access is equitably provided to the public, and to convey information about enrolled properties to the public. Additionally, the amount of access provided to the private lands under consideration as well as adjacent public lands opened through the lease should be considered in the criteria used by FWP to weigh a project for its ranking in the lease program. We appreciate your acknowledgment of this in the EA.

Thank you for the opportunity to provide comments on the proposed habitat conservation lease agreements.

Sincerely,

Scott Laird

Montana Field Representative

Theodore Roosevelt Conservation Partnership  
725 W Alder St. Suite 1

Missoula, MT 59802



July 13, 2022

Montana Trout Unlimited 312  
North Higgins, Suite 200  
P.O. Box 7186  
Missoula, Montana 59807

Montana Fish, Wildlife, and Parks ATTN:  
Ken McDonald  
P.O. Box 200701  
Helena, Montana 59620-0701

*Submitted via email to: [fwpwld@mt.gov](mailto:fwpwld@mt.gov)*

**Re: Draft Programmatic Environmental Assessment: Habitat Conservation Lease Agreements**

Mr. McDonald:

Thank you for the opportunity to provide written comments on the draft Programmatic Environmental Assessment (EA) for the Habitat Conservation Lease Agreement program, creating short-term leases for habitat conservation. We have reviewed the proposal put forward in the draft EA and want to express our concern and urge a more cautious approach to developing a robust analysis of this significant departure from what has become a popular and well-used program for conserving terrestrial and aquatic habitats in our state. The scope of changes proposed here are truly significant, in addition to the projected costs. As such, we wish to go on record supporting the draft Alternative A, the no change alternative.

Founded in 1964, Montana Trout Unlimited (MTU) is the only statewide grassroots organization dedicated solely to conserving, protecting, and restoring Montana's coldwater fisheries. MTU is comprised of 13 chapters across the state, including the Joe Brooks and Magic City Flyfishers Chapters in the area, and represents approximately 5,000 members and friends. Many of our members are conservation-minded anglers who have an active interest in the health and recreational values of our state's rivers and streams.

Habitat Montana has been an important and well used tool for the agency to conserve critical habitats across Montana, including ones of significance to our world class fisheries. In fact, countless streams, tributaries, ephemeral waterways, and rivers have been conserved and protected through Habitat Montana, many of which are critical habitats supporting our iconic coldwater fisheries. In addition, MTU and partners have worked across many of those important acquisitions to restore aquatic habitats that had been previously damaged by past land use practices and historic mining activities.

In short, we view Habitat Montana and Montana Fish, Wildlife, and Parks (FWP) as important partners in contributing to achieving our mission to conserve, protect, and restore Montana's coldwater fisheries and their habitats. We are not opposed to new ideas of how to implement long standing programs, including the use of short-term leases in the suite of Habitat Montana's tools, but we do support thoughtful and well vetted processes. As such, we urge caution to making dramatic changes to an existing program that is doing demonstrated good because a review of the draft EA highlights that there is more work to be done before making this leap of faith. We urge the selection of Alternative A in the draft EA.

We see several shortfalls in the analysis of the shift to using Habitat Montana dollars for short term habitat conservation leases rather than their original purposes. Most notably, the draft EA contains very few, if any specific references to the benefits of habitat conservation for Montana's coldwater fish species, including in the specifically outlined focal habitats. In fact, the entire approach seems to abandon the multi-species focus of the Habitat Montana program. Conservation of many of those habitats undoubtedly stands to have a demonstrated benefit for native and wild fish, but the entire topic seems to be an oversight in the analysis.

We think that is a grave and noticeable mistake given that Habitat Montana has historically been keen to think about the terrestrial-aquatic habitat interface and the demonstrated values of mutually beneficial conservation. The EA does not even consider impacts of these actions on federally listed or threatened fish species, nor state species of special concern. The glaring omission of impacts to all fisheries, including those considered to be most at peril by FWP and the U.S. Fish and Wildlife Service, needs to be considered before a final EA is contemplated.

Further, the Habitat Montana dollars available for conservation are limited and set biennially by the Legislature, and as we interpret this document the new proposed program is slated to consume most of the dollars available. That is a significant policy shift that warrants more analysis. This new shift of those financial resources is not well vetted or laid out in terms of accountability for the dollars. For example, the proposal in the draft EA does not outline a specific formula for assessing valuation of the five various focal ecosystems, and it includes no metrics to demonstrate efficacy of investments. There is a glaring lack of transparency, accountability, and financial responsibility. We must complete a more comprehensive approach than this draft EA considers.

Habitat Montana dollars have also been a significant keystone to leverage additional funds towards habitat conservation and restoration, and there is no consideration of those downstream impacts that may be associated with this action. Will the decision to make this significant shift in policy impact other private, state, federal, and private funding partners' investments in the types of projects that have demonstrated conservation benefits. The Mount Haggin Wildlife Management Area (WMA) is a perfect example where investments of Habitat Montana funds have been multiplied many times in matching funds for habitat restoration from past mining activities, expansions of access, and new opportunities for recruitment and retention of outdoor enthusiasts. The draft EA does not consider the impact of how the shift to a short-term lease will impact, likely lessening those downstream investments.

Lastly, there is no protection offered for those projects that are already in the pipeline through Habitat Montana as it is currently configured. MTU has a close eye on many of those projects because of the demonstrated multi-species focus that includes aquatic habitats. Because there is no discussion offered for these impacts, we are left wondering what will happen with those conservation easement and acquisition projects. More analysis and discussion are warranted.

Until more analysis and stakeholder involvement is completed, including some analysis of the impact on this proposed program on our state's fisheries as well as the financial ramifications of this decision, the agency must adopt Alternative A. From MTU's perspective, this proposal has taken an important tool in coldwater fisheries conservation, Habitat Montana, and diverted nearly all of the funding for that successful program that has a multispecies benefit to one that does not even mention or consider fish as a beneficiary. We stand ready and willing to help the agency develop a better analysis of the impacts of these decisions on the state's aquatic resources in that process. We believe that the complete oversight of those fisheries resources was simply an oversight in the development of this draft EA.

Please do not hesitate to contact us with any questions, or if you need additional information regarding the comments that we have submitted (via email at [clayton@montanatu.org](mailto:clayton@montanatu.org) or by phone at 406-543-0054). Again, we thank you for the opportunity to provide public comment on this important topic.

Respectfully,

A handwritten signature in blue ink, appearing to read "Clayton Elliott", with a stylized flourish at the end.

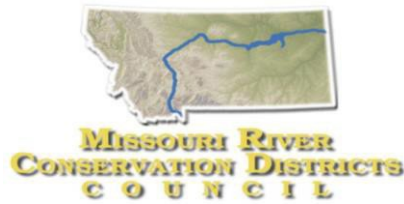
Clayton Elliott Conservation  
Director Montana Trout  
Unlimited



MRCDC

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Winnett, MT 59087



Phone: (406) 454-0056

[mrcdc@macdnet.org](mailto:mrcdc@macdnet.org)

[www.missouririvercouncil.info](http://www.missouririvercouncil.info)

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July 13, 2022

Montana Fish, Wildlife and Parks c/o  
Ken McDonald

PO Box 200701  
Helena, MT 59620

Re: Draft Programmatic Environmental Assessment for Habitat Conservation Lease Agreements Dear Mr.

Ken McDonald,

The Missouri River Conservation Districts Council (MRCDC) is a coalition of the fifteen conservation districts along the Missouri River in Montana. Spanning 725 miles of River corridor from its headwaters in Gallatin County to Richland County at the North Dakota border, MRCDC seeks to be the united voice for conservation of the Missouri River, its tributaries, and its associated uplands. Montana is the first state in the entire 10-state Missouri River basin to organize and fund a grassroots entity focused solely on the Missouri River basin.

First, MRCDC wants to thank you for the opportunity to comment on this draft Environmental Assessment (EA) regarding habitat conservation lease agreements. We do have a few comments regarding the draft EA.

Conservation programs that are, "incentive-based, voluntary agreements... to help conserve priority wildlife habitats..." (Bullet 1. Page 1) we believe are beneficial options to have in place. They can be a great tool to help landowners keep their land as working lands while benefiting habitats. MRCDC specifically likes seeing that working ranches are allowed to stay working ranching, such as continuing to allow cattle grazing. We additionally would like to add that any forested land entered into these habitat conservation easements also be able to be managed with responsible harvesting and thinning. MRCDC believes that 'no management' is not a management technique that benefits wildlife or habitat

lands. Lastly, related to land management directly, it is important for land managers be able to control noxious and invasive species with pesticides as needed. The draft EA mentions no herbicide treatment can be used to target native plants. We would also like to see it specify herbicides can be used to target noxious and invasive plant control. Land that is well managed helps benefit landscape habitats, wildlife, and the overall environment.

Land uses that are important to Eastern Montana are oil and natural gas development. As the draft EA is written, if the mineral rights owner is different than the surface rights owner, the mineral owner is allowed to develop their rights (Box 9 continued, page 22). Why is the surface rights owner not allowed to develop if they also own the mineral rights as well? Just as with the mineral rights owner only, FWP can work with the owner to minimize impacts to wildlife habitat features.

Part of these conservation leases is allowing for public access to the property. On page 14 there is a bullet point that states, "Public recreation access would be in the form of hunting during the Fish Wildlife Commission approved seasons, between September 1-December 31." In other parts of the EA, it does mention other recreational options, but this sentence makes it sound like those are not an option. It is important to allow for other recreational activities besides only hunting, such as spring horn hunters or just hiking. Landowners should not have to open their land during hunting at the minimum, and then other times of the year in addition to that to meet the minimum number of days requirement. An agreement between FWP and the landowner should be made that meets the minimum number of days requirement for any time of the year.

In the EA it says the payment rates will be available when projects are solicited for later this year. It would be nice to at least see a price range within the EA that the public could comment on directly. This would then also help FWP determine if the program would be feasible financially for landowners from comments received for this topic directly.

MRCDC would recommend extending the comment period to allow for more participation by landowners that this program is aimed at. Much of the targeted habitats are in Central and Eastern Montana. This area is still working through drought conditions trying to get what hay they can get put up, in full swing of other summer work, and in some cases making hardship decisions such as liquidating their cow herd due to the drought. In summary, this is a challenging time of year, and a longer public comment period would allow for more landowner participation. The other dates on the proposed timeline would also need pushed back if the public comment period is extended.

Another thought when reading through the document is, how does this program tie into the Montana Sage-Grouse Oversight Team program? This too has a Montana state conservation easement program with in it with an ultimate goal of keeping sage-grouse habitat intact to help the species survive. For the FWP program, the EA states that, "core sage-grouse areas are considered the highest conservation priority" (Figure 1, page 4). It is important that our state government programs work together to get the most out of it for the citizens of Montana.

The Missouri River Conservation Districts Council again wants to thank you for the opportunity to comment on this draft Environmental Assessment (EA) regarding habitat conservation lease agreements. If any questions arise regarding our comments, please email Molly Masters, MRCDC Coordinator, at [mrcdc@macdnet.org](mailto:mrcdc@macdnet.org) or call her at 406-454-0056.

Sincerely,

A handwritten signature in blue ink that reads "Laura Kiehl". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Laura Kiehl MRCDC  
Chairman

cc:

Governor Greg Gianforte

July 11, 2022

Dear Friends,

The MT Department of Fish, Wildlife and Parks has proposed a Conservation Lease Program for enrolling privately-owned priority wildlife habitats in conservation leases for 30 or 40 years. This proposal has serious defects and is not in the best interests of wildlife habitats nor the sporting public. Here are the reasons why I am opposed to this action:

1. The existing Habitat MT Program has been wildly successful. Since its inception fifty-six conservation easements and fee purchases have given permanent protection to 423,356 acres (source MTDFWP website). These are properties the department and public know will never be developed and that the public will always have access to. This success is built on private property rights and volunteer private landowners-the best of both worlds and a win-win for wildlife and access.

The beauty of Habitat MT Program (HB 526) is the program was established to "remove the (land conservation program) from political 'ebbs and flows'...and protect habitat and provide access". Habitat MT has been at the forefront and the envy of many states.

2. Habitat MT Program's perpetual conservation easements and fee acquisitions mean:
  - a. Wildlife habitat will **forever** be protected
  - b. Public access will **forever** be provided
3. The proposed Conservation Lease Program uses term easements of 30 or 40 years. The challenge of term easements is:
  - a. At the most protection/access for 40 years, two generations. Potentially less if the value of terminating the lease becomes higher. Then of course any legal constraints on protection/access are gone. This loss is particularly worry some if the opportunity of lost perpetual protection/access is considered.

4. Cost of proposed Conservation Lease Program:

- a. Total cost \$25-35 million.
- b. \$5-7 million per year for five years, which if other funding sources are not found is most, if not all, Habitat MT Program annual funding, leaving no funds for already existing programs. It is my understanding that demand for Habitat MT Program conservation easements has been steady from day one through today.

5. Public access:

- a. To quote, "access may seem modest compared to other FWP programs."
- b. The proposed term easements provide protection for at the most 40 years with "modest" access, while potentially using all the annual Habitat MT Program funds for 5-7 years.

6. Stewardship:

- a. The leases will be monitored at least every five years-lots of time for adverse events to occur. What is to keep a landowner from breaking the terms of the lease, then dropping out when the violation is found? This could be up to five years of funding with loss of values.
- b. Existing FWP conservation easements are annually monitored.

7. EA-"FWP does not find any substantial or significant negative impacts that might result from proposed leasing program." How about:

- a. Potential loss of joint projects with land trusts, NGO's and other agencies working on permanent land protection. No better example than the Thompson Lakes Projects. Loss of those projects would have been a tremendous opportunity cost to wildlife and the public.
- b. Low public access relative to other FWP programs.
- c. Limited value to 30-40 years, two generations at most, then gone...
- d. Opportunity cost of lost permanent land protection/public access by removing funding from successful existing conservation easement and fee program while development pressure grows and access to private lands decreases.
- e. What happens to current projects in process at FWP?

In closing, the proposed action is a major shift in FWP's lands program for the next 30-40 years with significant opportunity costs, and short-term protections and access.

Please continue the success of Habitat Montana Program with fee purchases and perpetual conservation easements.

Thanks for the opportunity to comment. Please let me know if there is anything I can do in support of the existing program.

Yours,

A handwritten signature in dark ink, appearing to be 'Bill Long', with a small dot above the 'i'.

Bill Long

1012 Peosta, Helena, MT, 59601.

406-437-2938

[bill@solidgroundconsulting.com](mailto:bill@solidgroundconsulting.com)

## #1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, June 16, 2022 7:59:41 AM  
**Last Modified:** Thursday, June 16, 2022 8:04:09 AM  
**Time Spent:** 00:04:28  
**IP Address:** 70.33.15.147

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Page 1

### Q1

Contact information:

Name:	Richard Schwalbe
City/Town:	Big Sky
State/Province:	MT
Email Address:	rjschwalbe@aol.com

---

### Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

I would like to know more about valuation methods. Is a 40 year lease worth 25% more than a 30 year lease. What about a comparison with permanent leases...it seems to me that an forever lease is worth far more (maybe infinitely more) than a temporary lease.

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, July 01, 2022 11:15:50 AM  
**Last Modified:** Friday, July 01, 2022 11:28:22 AM  
**Time Spent:** 00:12:32  
**IP Address:** 66.113.51.181

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Page 1

### Q1

Contact information:

**Name:** Trina Jo Bradley  
**City/Town:** Valier, Montana  
**State/Province:** MT  
**Email Address:** trinajobradley@yahoo.com

---

### Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

This habitat lease program seems like a great idea, and a good way to get people involved in conservation without having to sign their land away forever.

The Commission should review every application - I know it will be more time consuming, but I think it would be best to consider each application on its own.

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#3

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Monday, July 11, 2022 10:08:27 AM  
**Last Modified:** Monday, July 11, 2022 10:23:33 AM  
**Time Spent:** 00:15:05  
**IP Address:** 69.145.128.94

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Page 1

**Q1**

Contact information:

Name:	Bill Long
City/Town:	Helena
State/Province:	MT
Email Address:	bill@solidgroundconsulting.com

---

## Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

July 11, 2022

Dear Friends,

The MT Department of Fish, Wildlife and Parks has proposed a Conservation Lease Program for enrolling privately-owned priority wildlife habitats in conservation leases for 30 or 40 years. This proposal has serious defects and is not in the best interests of wildlife habitats nor the sporting public. Here are the reasons why I am opposed to this action:

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The beauty of Habitat MT Program (HB 526) is the program was established to “remove the (land conservation program) from political ‘ebbs and flows’...and protect habitat and provide access”. Habitat MT has been at the forefront and the envy of many states.

2. Habitat MT Program’s perpetual conservation easements and fee acquisitions mean:

- a. Wildlife habitat will forever be protected
- b. Public access will forever be provided

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- a. At the most protection/access for 40 years, two generations. Potentially less if the value of terminating the lease becomes higher. Then of course any legal constraints on protection/access are gone. This loss is particularly worry some if the opportunity of lost perpetual protection/access is considered.

4. Cost of proposed Conservation Lease Program:

- a. Total cost \$25-35 million.
- b. \$5-7 million per year for five years, which if other funding sources are not found is most, if not all, Habitat MT Program annual funding, leaving no funds for already existing programs. It is my understanding that demand for Habitat MT Program conservation easements has been steady from day one through today.

5. Public access:

- a. To quote, “access may seem modest compared to other FWP programs.”
- b. The proposed term easements provide protection for at the most 40 years with “modest” access, while potentially using all the annual Habitat MT Program funds for 5-7 years.

6. Stewardship:

- a. The leases will be monitored at least every five years-lots of time for adverse events to occur. What is to keep a landowner from breaking the terms of the lease, then dropping out when the violation is found? This could be up to five years of funding with loss of values.

- b. Existing FWP conservation easements are annually monitored.

7. EA-“FWP does not find any substantial or significant negative impacts that might result from proposed leasing program.” How about:

- a. Potential loss of joint projects with land trusts, NGO’s and other agencies working on permanent land protection. No better example than the Thompson Lakes Projects. Loss of those projects would have been a tremendous opportunity cost to wildlife and the public.
- b. Low public access relative to other FWP programs.
- c. Limited value to 30-40 years, two generations at most, then gone...
- d. Opportunity cost of lost permanent land protection/public access by removing funding from successful existing conservation easement and fee program while development pressure grows and access to private lands decreases.
- e. What happens to current projects in process at FWP?

In closing, the proposed action is a major shift in FWP's lands program for the next 30-40 years with significant opportunity costs, and short-term protections and access. Please continue the success of Habitat Montana Program with fee purchases and perpetual conservation easements.

Thanks for the opportunity to comment. Please let me know if there is anything I can do in support of the existing program. Yours,

Bill Long

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#4

COMPLETE

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**Q1**

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## Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

Dear Director Worsech,

I offer these comments on the Draft Programmatic Environmental Assessment (EA) on the proposed Habitat Conservation Lease Agreements (Habitat Leases).

Considering the results outlined by FWP in the Draft Programmatic EA, the scope of the changes being proposed, the massive expenditure expected, and the radical change in how the program is to be used, I urge a far more

cautious and deliberative approach than that proposed in the EA. I urge the adoption of Alternative A: the “no change” alternative. Such a massive restructuring of an effective and popular program deserves a more thorough analysis of its merits, which is not evident in the EA.

For decades, Habitat Montana has conserved and provided permanent access to almost one million acres of land. Montana’s conservation needs will not be met by adding this extensive short-term habitat component to the program,

especially considering the myriad of existing programs that were explicitly designed to focus on habitat improvement, upland game bird management, and access programs, such as Block Management, which likely would pay a higher dividend than this program once cooperators factor the maximum payment over the course of the 30-40 year time frame.

I am concerned that the Commission is being asked to make decisions in the dark, while the agency will be scrambling to fix issues that could be avoided by simply taking the time to develop this project more thoroughly.

I believe the proposed action is fiscally irresponsible given the limited funds available to Habitat Montana and current projects in the

pipeline for both fee title acquisition and conservation easements. The EA does not outline a formula for assessing the valuation of the various ecosystems listed in the EA, yet claims that the agency seeks to spend no less than \$5-7 million per year over the next five years, expenditures that would consume the majority of conservation funding available to the Habitat Montana program, leading to higher costs for lesser conservation outcomes. A brief sentence in the EA about establishing a valuation between 5 and 10 percent of the fee title value is not justified by any data or citations. As such, it leads us to speculate that the methodology used to develop the expectation of how millions of dollars would be spent by the administration would need significant refinement and public comment opportunity before moving forward with this project.

The EA states that the agency seeks to use this funding to improve sage grouse

habitats. Improving sage grouse habitat is a worthy goal; however, this proposal ignores the agency's other tools, e.g., the Upland Game Bird Habitat Enhancement Program and the Wildlife Habitat Improvement Program. The proposal seems determined to replace the use of general tax dollars contributed to the Montana Sage Grouse

Stewardship Program with the lower value, less effective conservation effort of short-term leases. Shifting the burden of funding

away from the Sage Grouse Stewardship account and placing the bulk of grouse conservation on the backs of hunters ignores the work of Montanans that resulted in the 2015 decision not to list sage grouse and

puts the species at risk of judicial action rather than allowing the states to follow through with their approved management plans. Finally, this

funding plan diverts resources from other species, including elk, for a

species that already has a fund dedicated to protecting it, along with other underutilized programs that could be used for the goals outlined in this EA.

Existing projects in the Habitat Montana pipeline appear to be orphaned under the proposed action, with the agency seeking to solicit applications by August 1. With several conservation easements under consideration, plus several small- and large-scale acquisitions working their way through the agency, the speed at which FWP hopes to implement this new program is

ill-advised. The brief interlude between the closing of comments on the EA and the soliciting of applications suggests strongly that comments won't be given serious consideration. The "Fix" is apparently in.

The scale, speed, and implications of this program are beyond the scope of a simple EA. They warrant an Environmental Impact Statement to analyze the proposal thoroughly. The agency's admission that most Habitat Montana funding will be diverted to pay for the short-term easements, is a major policy shift. In addition, the impact on landowners currently working on projects could jeopardize the future of their farms and ranches.

I am concerned that abandoning the multi-species focus of Habitat Montana will result in the loss of big-game winter range, fragmentation of migration corridors, and lost opportunities to conserve landscape-scale habitats at the very time that all these critical habitats are under pressure from subdivisions, climate change, and land conversion. A shift away from one of the primary drivers of Habitat Montana (conservation of critical habitats for all species) means less available habitat as ranches are

subdivided and sold off. It means fewer elk for Montana hunters. For grizzly bears, it frustrates efforts to delist the Northern Continental Divide Ecosystem population.

The proposed action misses key opportunities to leverage existing programs to achieve the agency's conservation goals and provides insufficient detail about the fiscal assumptions used to justify the program. This is a significant overhaul of a cornerstone program so more information on land valuation and return on public investment is needed. We recommend that the agency further review and adopt a more thoughtful approach to valuation before sending out application notices.

FWP mandating access in the leases is good. However, self-reporting will lead to abuses of the program by not



requiring an actual metric and reporting requirement to record the ALS number of the hunter or angler who uses a property. There exists a belief

that some landowners are gaming the system, funded by public hunters, and then providing exclusive access to paying customers or others. We recommend establishing a sign-in

roster that records the name, ALS, species sought/harvested, and the number of recreation days. I believe no outfitted properties should be allowed to enter these programs, as the landowner is already compensated for their habitat stewardship through the free- market.

The substantial shift in funding sources and priorities for a large and popular program like Habitat Montana without having any actual funding metrics available is poor planning and not in the public's interest. The Commission should not adopt this program until the funding metrics are

established and reviewed by the public and land-valuation experts who

understand the complexities of short-term vs. long-term leases. For the proposal to be credible it needs public transparency in the valuation and selection process. Considering the interests being acquired and the amount of money being spent, appraisals that meet recognized appraisal standards should be required to establish values.

While some good ranking and eligibility choices are detailed in the EA, I strongly suggest disallowing properties leased for hunting either privately or through an

outfitter. There is no reason the public should pay for the habitat management of a private hunting preserve. I also recommend the FWP consider funding availability and impacts on forested ecotypes, big-game winter range, and habitats for other species.

Shifting the burden of funding and conservation of sage grouse to hunters, rather than the current model that considers all other stakeholders, is an improper and undue burden on hunters and opens FWP to judicial scrutiny of its sage grouse conservation plan.

FWP's public process appears to lack involvement of the Upland Game Bird Enhancement Council and regional Citizens Advisory Councils. I am deeply concerned about how rapidly this process is being ramrodded through. A month and one online meeting is poor public involvement for a proposal of this magnitude. It signals to Montanans that their voices don't matter, and this process is simply pro forma. FWP should provide a more transparent and robust public process moving forward.

Habitat Montana is a wonderful tool to protect our most cherished and endangered landscapes in Montana permanently. It represents government efficiency and public/private cooperation at its finest. Short-term leases may work in some isolated instances, but making it the bulk of the program is

ill-advised and short-sighted for the reasons detailed. I worry that this move will leave some landowners with no option but to sell. I strongly urge the agency and Commission to table this effort until the financial impact is more thoroughly vetted and the agency has a chance to develop this concept fully. This

EA is incomplete and relies too much on the notion that details will be resolved in the future. This is a poor way to implement a significant shift in conservation priorities and funding.

I respectfully asks for the adoption of Alternative A, no action.

Glenn Elison

#5

COMPLETE

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**Q1**

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Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

I am the Northern Rockies Director of The Trust for Public Land (TPL) and I am submitting these comments on behalf of TPL.

TPL has been conserving land for people in Montana for over 20 years and has used state funds to help in those efforts from time-to-time. TPL has several concerns about the proposed Habitat Leasing program.

Habitat leasing, if properly and carefully designed, can serve as another tool to accomplish effective habitat conservation. The tools we have historically used--conservation easements and fee simple acquisition--have proven to be very effective uses of Montana taxpayer dollars. They have produced outstanding results for Montana taxpayers and recreational land users, and we urge the Department to continue using those tools in order to continue achieving those results. Habitat leasing should not be a replacement of those two very effective tools, but, instead, an additional conservation tool that can be used if conservation easements or fee acquisition are not appropriate or possible for a given area or habitat goal.

The EA does not state a rationale for the valuation/payment for the leases. It states that payment would be "upfront" at "a fixed rate per acre, ranging 5-10% of the fee simple value." The fee simple value will evidently be estimated from DNRC land valuations. On what basis and rationale was this percentage established? Without a more transparent valuation rationale, the public cannot be assured that their tax dollars are buying good habitat value.

TPL is also concerned about the monitoring approach discussed in the EA. Ideally, the program should follow the Land Trust Alliance Standards and Practices that land trusts and government entities use to ensure compliance. Standard 11 of those Standards and Practices sets forth the best practices for such monitoring. Specifically, while aerial imaging is an effective tool for some monitoring, the program should require on-site inspections at least every two years.

Thank you for the opportunity to comment on this Draft EA. Dick

Dolan

Northern Rockies Director

#6

COMPLETE

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**Q1**

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## Habitat Conservation Lease Agreements - Draft EA

### Q2

Please enter your comments regarding the Habitat Conservation Lease Agreements Draft Environmental Assessment in the box below.

RE: Habitat Conservation Lease

Agreements Draft EA Dear Mr.

McDonald,

The Montana Stockgrowers Association (MSGA) submits the following comments regarding the draft environmental assessment of habitat conservation lease agreements. Our organizations represent ranchers that manage livestock on private, state and federal lands. Conservation is of the utmost importance to our members who have proven that livestock grazing contributes positively to wildlife habitat. Ranchers are the stewards of the wildlife habitat on both the private and public land in Montana.

Our organization continues to look for initiatives that provide flexibility to landowners who choose to participate in conservation programs. Each ranch operation looks at different elements when making decisions on whether to engage in a conservation program. The proposed habitat conservation lease may not be a fit for all ranchers in the state. For example, the requirement of the lease to allow a minimum number of wildlife-related recreation-days may be a reason many ranchers do not participate in this program.

However, an incentive-based, voluntary agreement that helps to conserve priority wildlife habitats on private lands while also supporting working lands and public hunting and recreation opportunities will be attractive to some ranchers. Additionally, we were happy to see the 30 or 40 year terms outlined in the program rather than the requirement for a perpetual lease. This makes this lease option a much more attractive management tool.

MSGA appreciates FWP's willingness to allow public comment on this important

management tool. Sincerely,

Raylee Honeycutt

Director of Natural Resources | Montana Stockgrowers Association