

***FWP Region 4******4600 Giant Springs Road******Great Falls, MT 59405*****PUBLIC SCOPING NOTICE – FWP Lands Project Proposal**

May 1, 2023

Dear Interested Party,

Montana Fish, Wildlife, & Parks (FWP) will prepare a Draft Environmental Assessment or EA for a proposed approximately 2,322-acre perpetual conservation easement (CE) in Fergus County near Lewistown, MT (Exhibit A). The proposed “Big Spring Creek Conservation Easement”, owned by Clark and Gail Brevig, would provide protection, enhancement, and improved public access to a unique and important area of fish and wildlife habitat in central Montana. FWP invites the public to identify any issues and concerns related to this proposal via the public scoping process initiated by this notice. Comments received during this scoping period will help FWP determine public interest, identify potential issues that would require further analysis and may provide insight for refining the proposal or for developing and analyzing additional alternatives.

**Background and Authority**

FWP has the authority under law (MCA 87-1-201) to protect, enhance and regulate the use of Montana's fish and wildlife resources for public benefit now and in the future. In 1987, the Montana Legislature passed House Bill (HB) 526, the Habitat Montana Program, which earmarked hunting license revenues to secure wildlife habitat through lease, conservation easement, or fee title acquisition (MCA 87-1-241 and 242). Habitat Montana recognizes that certain native plant communities constituting wildlife habitat are worthy of perpetual conservation. The proposed Big Spring Creek CE includes such resources, warranting conservation considerations.

Senate Bill 230, passed by the Montana Legislature in 2015, requires FWP public scoping for certain land projects. MCA 87-1-218 reads as follows: “For all land acquisitions of 640 acres or more proposed pursuant to 87-1-209, the department shall: (a) conduct a public scoping process to identify issues and concerns as the initial phase of an environmental review pursuant to Title 75, chapter 1, part 2; (b) provide the public with sufficient notice of the proposed acquisition and an opportunity to provide input on reasonable alternatives, mitigation alternatives, mitigation measures, issues, and potential impacts to be addressed in the environmental review; and (c) respond to comments received during the public scoping process as part of the environmental review document.”

Conservation easements are partnerships between FWP and willing private landowners to conserve important wildlife habitats and provide public recreational access. The landowners receive financial compensation in exchange for adopting conservation and public access CE covenants while continuing to operate private ranching operations. If approved, FWP would hold and monitor the CE.

### **Proposed Project Description**

The proposed Big Spring Creek CE consists of approximately 2,322 deeded acres of prairie grassland, riparian, and mixed conifer-deciduous forest in South Moccasin Mountain foothills in Fergus County, about 9 miles northwest of Lewistown in hunting district (HD) 412. The property also includes three miles of Lower Big Spring Creek and another ~2.9 miles of its tributaries. The primary objectives of this CE are to provide perpetual conservation and enhancement of high-quality native habitats, maintaining traditional agricultural land uses and provide public recreational opportunity.

### **Project Overview and Objectives**

The entire property boundary contains >82% of priority terrestrial community types identified by the 2015 State Wildlife Action Plan. It also lies within Priority Area D of Montana's State Action Plan to protect big game migration routes and winter ranges, particularly for pronghorn, mule deer, and elk in response to Secretarial Order (SO) 3362, signed in 2018. As such, it provides important year-round, winter range, and migratory habitat for a variety of big game (mule deer, white-tailed deer, pronghorn, some elk, black bear, mountain lion), upland game bird (pheasant, sharp-tailed grouse, Hungarian partridge, wild turkey), migratory bird (ducks, geese, sandhill crane, dove), and a host of nongame species. Big Spring Creek itself provides habitat for a variety of waterfowl species, in addition to being an important fishery. Fish species present include recreationally important brown trout, rainbow trout, occasional brook trout, mountain whitefish, and numerous nongame species, including Species of Concern northern redbelly dace.

Specific terms of the easement would be contained in a legal document, which is the "Deed of Conservation Easement". This document lists FWP and Landowner rights under terms of the easement, as well as restrictions on Landowner activities, which are negotiated and agreed upon by both parties. Below is a summary of the terms that are typical of sagebrush grassland CE's. A future Draft EA will further define terms specific to this proposed easement.

#### **Typical conservation easement terms:**

FWP's rights may include the right to:

- (1) identify, preserve, and enhance specific habitats and conservation values of the Land;
- (2) upon prior notice to the landowners, enter upon and inspect the Land;
- (3) monitor, enforce, and prevent activities inconsistent with purpose of the easement; and
- (4) provide hunting, trapping, wildlife viewing (recreational access) for the general public.

Landowner's retained rights may include the right to:

- (1) graze livestock within a described grazing system;
- (2) cultivate and farm grain fields and/or hay land (only that which currently exists);
- (3) provide regulated public use of the Land at all times;
- (4) develop and maintain water resources, including springs, on the Land necessary for farming,

grazing, and wildlife purposes that are allowed by the easement;

- (5) repair, renovate, improve, or remove existing structures and service roads;
- (6) construct, remove, repair and/or replace fences for grazing livestock;
- (7) maintain, renovate, repair or replace utilities existing on the Land at the time;
- (8) use agrichemical, biological, and/or mechanical means for the control of noxious weeds;
- (9) maintain, renovate, repair, or replace utility structures existing on the Land;
- (10) limited construction of residences within a defined building area as determined by FWP;
- (11) retention of water rights;
- (12) maintain, restore and/or improve fish and wildlife habitat (subject to prior approval);
- (13) grant, sell, exchange devise, gift, convey, transfer or dispose of all of Landowner's right, title, estate, and interest in the land in one parcel only.

Restrictions placed upon Landowner activities may include:

- (1) no removal, control, or manipulation by any means of shrub and tree species that could be browsed and utilized by wildlife except in routine clearing for roads, trails, structures and fences;
- (2) no subdivision;
- (3) no cultivation or farming beyond what is described or currently exists;
- (4) adherence to a described grazing plan outlined in an associated Management Plan (referenced below);
- (5) no outfitting or fee hunting;
- (6) exploration for or development and extraction of minerals, coal, bentonite, hydrocarbons, soils, or other materials by any mining method that disturbs the surface of the Land is prohibited; in addition, the exploration for or development and extraction of minerals, coal, bentonite, hydrocarbons, soils, or other materials below the surface of the Land by any sub-surface mining method that would significantly impair or interfere with the conservation values of the Land is prohibited. This restriction would not apply to third party mineral owners;
- (7) no commercial feed lots;
- (8) no game farms or alternative livestock farms;
- (9) no waste, refuse, or hazardous material dumping;
- (10) no commercial or industrial use except traditional agricultural use;
- (11) draining, filling, dredging, leveling, burning, ditching, diking, or reclamation of any natural or manmade wetland or riparian area is prohibited;
- (12) granting of right-of-way or easements for utilities, roadways, natural gas lines, or other purposes are prohibited except with prior approval from FWP; and
- (13) construction of facilities for the development and utilization of renewable energy resources, including, wind and solar, except for use principally on the Land by the Landowner.

### **Development of a management plan**

In addition to the Deed of CE, FWP would develop a Management Plan that documents strategies for land (grazing) and recreational access management. The Management Plan is a living document that ensures additional flexibility for the benefit of the Landowner and FWP in managing the land once the Deed of Conservation Easement is filed.

### **Public Involvement and Process**

Formal public participation in the proposed purchase of this CE begins with this scoping process. Upon completion of the scoping phase, FWP will determine next steps, which may include

development of a Draft EA with additional opportunity for public input or taking no further action. Public scoping comments will help in development of the Draft EA, which will be available for public review likely Spring/Summer 2023. The Draft EA, to be published at a later date, will further explain how FWP's proposed expenditure for this CE would help facilitate protection of the property's wildlife and agricultural values.


**The 30-day public scoping on the proposed project will run from May 1 through May 30, 2023.**

Submit written comments: Montana Fish, Wildlife & Parks, c/o Big Spring Creek Conservation Easement Proposal, PO Box 938, Lewistown, MT 59457. Or, email comments to [sandersen@mt.gov](mailto:sandersen@mt.gov) Attn: Big Spring Creek Conservation Easement Proposal.

If you have any questions regarding the proposed project, please call Lewistown-Area Wildlife Biologist Sonja Andersen at (406) 366-5266 or email: [sandersen@mt.gov](mailto:sandersen@mt.gov)

Thanks for your time and consideration of this proposed project.

Sincerely,

 for Gary Bertellotti

Gary Bertellotti  
Region 4 Supervisor  
Montana Department of Fish, Wildlife & Parks  
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[gbertellotti@mt.gov](mailto:gbertellotti@mt.gov)

## Exhibit A. Proposed Big Spring Creek Conservation Easement

